By Mr. CORZINE:

S. 1935. A bill to amend the Public Health Service Act to require employers to offer health care coverage for all employees, to amend the Social Security Act to guarantee comprehensive health care coverage for all children born after 2001, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NICKLES (for himself, Ms. LANDRIEU, Mr. CRAIG, Mr. BINGAMAN, Mr. INHOFE, and Mr. SMITH):

S. 1934. A bill to establish an Office of Intercountry Adoptions within the Department of State, and to reform United States laws governing intercountry adoptions; to the Committee on the Judiciary.

Mr. NICKLES. Mr. President, today on National Adoption Day, I rise to introduce the Intercountry Adoption Reform Act along with my colleagues Senators LANDRIEU, CRAIG, BINGAMAN, INHOFE and SMITH. The primary focus of this bill is to streamline, simplify and improve the foreign adoption process for families, adoption agencies and more importantly for the foreign adopted children of American citizens.

In the last decade, there has been a significant growth in intercountry adoption. In 1990, Americans adopted more than 7,000 children from abroad. In 2002, Americans adopted almost 20,000 children from abroad. Families are increasingly seeking to create or enlarge their families through intercountry adoptions. There are many children worldwide who are without permanent homes. It is the intent of this bill to make much-needed reforms to the intercountry adoption process used by U.S. citizens and therefore help more homeless children worldwide find a permanent home here in the United States.

There are two main goals of this legislation. First, and more importantly, this bill acknowledges and affirms that foreign adopted children of American citizens are to be treated in all respects the same as children born abroad to an American citizen. Under existing law, foreign adopted children are treated as immigrants to the United States. They have to apply for, and be granted immigrant visas to enter the United States. Once they enter the United States, citizenship is acquired automatically. Had these children been born abroad to American citizens, they would have traveled back to the United States with a U.S. passport and entered as citizens. This bill provides for equal treatment for foreign adopted children.

Furthermore, these children are not immigrating to the United States in the traditional sense of the word. They are not choosing to come to our country, but rather American citizens are choosing to bring them here as part of their families. Once a full and final adoption has occurred, then the adopted child is a full-fledged member of the family and under adoption law is considered as if ''natural born.'' As a child of an American citizen, the foreign adopted child should be treated as such, not as an immigrant.

The second goal is to consolidate the existing functions of the Federal Government relating to foreign adoption into one centralized office located within the Department of State. Currently, these functions are performed by offices within the Department of Homeland Security and the Department of State. Consolidation of these functions into one office will result in focused attention on the needs of families seeking to adopt overseas and on the children they are hoping to make part of their families.

Today, when a family seeks to adopt overseas, it has to first be approved to adopt by the Department of Homeland Security. Then, after a child has been chosen, the Department of Homeland Security has to determine if the child is adoptable under Federal adoption law. After this determination is made, the Department of State has to determine whether the child qualifies for a visa as an immediate relative of an American citizen. This bill seeks to minimize the paperwork involved and streamline the process by having these functions all performed in one, centralized office, the Office of Intercountry Adoptions, staffed by expert personnel trained in adoption practices.

The focus of this office will be on foreign adoptions and only on foreign adoptions. Officials in the Department of Homeland Security and the Department of State that currently perform the functions being transferred to this new office have many other duties, such as screening for terrorists or dealing with illegal immigrants. Adoption is frequently a low priority on the desk of such officers. By consolidating these functions into one office, with its sole focus being foreign adoption, these issues can be handled more promptly and given the priority they deserve.

Another aspect of the Office of Intercountry Adoptions that I consider extremely important is the proactive role that we intend for it to take in assisting other countries in establishing fraud-free, transparent adoption practices and interceding on behalf of American citizens when foreign adoption issues occur. By establishing an Ambassador at Large for Intercountry Adoption, this legislation will provide a point of contact for foreign governments when issues involving foreign adoptions arise.

In the last few years there have been many examples of instances where our government has had to intercede on behalf of Americans seeking to adopt a foreign child. For example, Romania has been closed to foreign adoption for more than 2 years now. When Romania issued its moratorium on foreign adoption, hundreds of American families who were in the process of adopting Romanian orphans were unable to complete their adoptions. Fortunately, the Department of State was able to work successfully with the Romanian government to have these adoptions processed and persuaded Romania to grant exceptions to the moratorium for these American families and their adopted. Unfortunately, the moratorium is still in place leaving many orphans stuck in orphanages across Romania.

There also have been major adoption issues involving Cambodia, Vietnam, and Guatemala in the last 2 years. These issues are still being addressed by various officials within the Department of State and the Department of Homeland Security. It will be greatly beneficial to have a point person within the Federal Government to work on these issues, facilitate resolutions, and intercede on behalf of American families.

There also are some very significant procedural changes in the foreign adoption process included in this bill. Under the Child Citizenship Act of 2000, a foreign child adopted by a U.S. citizen acquires automatic citizenship upon entry into the United States to reside permanently. This bill proposes to change the point of acquisition of citizenship from entry into the United States to the time when a full and final adoption decree is entered by a foreign government or a court in the United States. Prior to citizenship attaching, the child must be determined to be an ''adoption child'' under U.S. law as defined in this bill. This provision is made retroactive to January 1, 1950, the year Americans began to adopt from abroad. This date also addresses the issue of children adopted during this time period whose parents failed to naturalize them under previous law.

Additionally, the Secretary of State shall issue a U.S. passport and a Consular Report of Birth for a child who satisfies the requirements of the Child Citizenship Act as amended by this Act. No visa will be required for such a child; instead it will be admitted to the United States upon presentation of a valid U.S. passport. No affidavit of support under 213A of the Immigration and Nationality Act will be required nor will the child be required to undergo a medical exam. These changes are again made to more closely equate the process of bringing a foreign adopted child home to the process of documenting and bringing home a biological child born abroad to a U.S. citizen.

When a U.S. citizen gives birth abroad, the parents simply go to the U.S. Embassy, present the child's birth certificate, their marriage license and proof of U.S. citizenship. Upon receiving this documentation, the embassy provides the parents with a U.S. passport for the child and a Consular Report of Birth that serves as proof of their child's citizenship as well as the child's birth certificate. This process takes little to no time to complete.

The process for foreign adopted children, however, is anything but quick and easy. Currently, an adoptive family may have to travel from the country where it adopts a child to another

country in order to get the child's immigrant visa. Only certain embassies are able to grant such visas. On the other hand, most embassies are equipped to provide passports and Consular Reports of Birth. This will eliminate the need and expense associated with families having to travel with their newly adopted children to another U.S. Embassy in a different location prior to bringing the children home.

This bill also provides that the adoptive parents do not have to prove twice that they are financially capable of providing for their child and eliminates the immigration requirement of having the child undergo a medical exam. Before a family is approved to adopt a foreign child, the Federal Government has to be satisfied that the family is financially able to care for the child. This is part of the approval process. They should not have to repeat this process once they have fully and finally adopted a child.

In addition, prior to a family choosing to adopt a child, they should acquire and be provided as much medical information as is available on the health of the child so that it can make an informed decision on its ability to care for the child. Once that information has been provided and the child has been adopted, the child is now a member of the family. No biological child is denied entry because of medical reasons, nor should an adopted child be denied.

Another section of this bill provides for a new type of visa for children traveling to the United States for the purpose of being adopted by an American citizen who has been approved to adopt. Currently children who are not adopted overseas prior to their entry into the United States are allowed entry using an immigrant visa. As I have stated earlier, these children are not immigrants. They are being brought to the United States, at the request of a U.S. citizen, to become a member of that family. This new visa is a non-immigrant visa which authorizes admission of the child for the purposes of adoption. The authorized admission under this section terminates on the date the adoption is finalized, or 2 years after the date of admission if the adoption has not been finalized. Until the child is adopted, the child will receive temporary treatment as a legal permanent resident.

This bill also redefines the criteria used to determine a child's eligibility for adoption This is a critical piece of this legislation. The existing statutory language has not been revised since it was first written over 50 years ago. When it was written it was intended to deal primarily with war orphans and it does not permit voluntary relinquishment of children who have two living parents. The provision in this bill has been written to more fully comport with the language as agreed to in the Intercountry Adoption Act of 2000 which does permit the adoption of children whose parents have irrevocably relinquished them.

The bill also includes many safeguards such as: requirements that the Secretary of State is satisfied that the proper care will be furnished the child; that the purpose of the adoption is to form a bona fide parent-child relationship; that the biological parent-child relationships have been terminated; that the Secretary of State, in consultation with the Secretary of Homeland Security, is satisfied that the child is not a security risk; and that whose adoption and emigration to the United States has been approved by the competent authority of the country of the child's place of birth or residence.

Now that I have covered some of the significant aspects of this bill, let me tell you what this bill does not do. It does not create more bureaucracy or additional regulation. It does not increase fees for adoption. It does not slow down the adoption process. It does not add more red tape or additional paperwork. In fact, it does just the opposite.

It consolidates existing Federal processes for foreign adoptions into what is intended to be a ''one stop shop''—the Office of Intercountry Adoptions. It eliminates paperwork involved in getting an immigrant visa and provides citizenship documentation up front for the child, saving the adoptive family from having to deal with this upon its return home. Instead the fully and finally adopted child enters the United States on a U.S. passport as a U.S. citizen and child of a U.S. citizen.

This bill is intended to ease the paperwork burden on adoptive parents who have already gone through extensive paperwork and documentation production to accomplish their adoption. It is intended to recognize that children adopted by American citizens are the children of American citizens and entitled to all the same rights, duties and responsibilities of biological children of U.S. citizens born abroad.

I introduce this bill with the hope that its passage will significantly improve the foreign adoption process so that more children worldwide can find loving, permanent homes. It is my prayer that someday, adoption will not be needed. That all children will be born into stable, loving homes to parents who want them and are able to care for them. However, until that day comes the foreign adoption process can be improved and should be improved. Foreign adopted children should be treated as children of U.S. citizens, not as immigrants, and should be accorded all the same rights as biological children of U.S. citizens. To that end, I introduce this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1934

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Intercountry Adoption Reform Act of 2003'' or the ''ICARE Act''.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) That a child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love, and understanding.

(2) That intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her country of origin.

(3) There has been a significant growth in intercountry adoptions. In 1990, Americans adopted 7,093 children from abroad. In 2001, they adopted 19,237 children from abroad.

(4) Americans increasingly seek to create or enlarge their families through intercountry adoptions.

(5) There are many children worldwide that are without permanent homes.

(6) In the interest of United States citizens and homeless children, reforms are needed in the intercountry adoption process used by United States citizens.

(7) In addition, Congress recognizes that foreign born adopted children do not make the decision whether to immigrate to the United States. They are being chosen by Americans to become part of their immediate families.

(8) As such these children should not be classified as immigrants in the traditional sense. Once fully and finally adopted, they should be treated as children of United States citizens.

(9) Since a child who is fully and finally adopted is entitled to the same rights, duties, and responsibilities as a biological child, the law should reflect such equality.

(10) Therefore, foreign born adopted children of United States citizens should be accorded the same procedural treatment as biological children born abroad to a United States citizen.

(11) If a United States citizen can confer citizenship to a biological child born abroad, then the same citizen is entitled to confer such citizenship to their legally and fully adopted foreign born children immediately upon final adoption.

(12) If a United States citizen cannot confer citizenship to a biological child born abroad, then such citizen cannot confer citizenship to their legally and fully adopted foreign born child, except through the naturalization process.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure that foreign born children adopted by United States citizens will be treated identically to a biological child born abroad to the same citizen parent;

(2) to improve the intercountry adoption process to make it more citizen friendly and child oriented; and

(3) to foster best practices.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADOPTABLE CHILD.—The term ''adoptable child'' has the same meaning given such term in section 101(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(c)(3)), as added by section 204(a) of this Act.

(2) AMBASSADOR AT LARGE.—The term ''Ambassador at Large'' means the Ambassador at Large for Intercountry Adoptions appointed to head the Office pursuant to section 101(b).

(3) FULL AND FINAL ADOPTION.—The term ''full and final adoption'' means an adoption—

(A) that is completed according to the laws of the child's country of origin or the State law of the parent's residence;

(B) under which a person is granted full and legal custody of the adopted child;

(C) that has the force and effect of severing the child's legal ties to the child's biological parents;

(D) under which the adoptive parents meet the requirements of section 205; and

(E) under which the child has been adjudicated to be an adoptable child in accordance with section 206.

(4) OFFICE.—The term ''Office'' means the Office of Intercountry Adoptions established under section 101(a).

(5) READILY APPROVABLE.—A petition or certification is considered ''readily approvable'' if the documentary support provided demonstrates that the petitioner satisfies the eligibility requirements and no additional information or investigation is necessary.

TITLE I—ADMINISTRATION OF INTERCOUNTRY ADOPTIONS

Subtitle A—In General

SEC. 101. OFFICE OF INTERCOUNTRY ADOPTIONS.

(a) ESTABLISHMENT.—There is established within the Department of State, an Office of Intercountry Adoptions which shall be headed by the Ambassador at Large for Intercountry Adoptions who shall be appointed pursuant to subsection (b).

(b) AMBASSADOR AT LARGE.—

(1) APPOINTMENT.—The Ambassador at Large shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who have background, experience, and training in intercountry adoptions.

(2) AUTHORITY.—The Ambassador at Large shall report directly to the Secretary of State, in consultation with the Assistant Secretary for Consular Affairs.

(3) DUTIES OF THE AMBASSADOR AT LARGE.—In carrying out the functions of the Office, the Ambassador at Large shall have the following responsibilities:

(A) IN GENERAL.—The primary responsibilities of the Ambassador at Large shall be—

(i) to ensure that intercountry adoptions take place in the best interests of the child; and

(ii) to assist the Secretary of State in fulfilling the responsibilities designated to the central authority under title I of the Intercountry Adoption Act of 2000 (42 U.S.C. 14911 et seq.).

(B) ADVISORY ROLE.—The Ambassador at Large shall be a principal advisor to the President and the Secretary of State regarding matters affecting intercountry adoption and the general welfare of children abroad and shall make recommendations regarding—

(i) the policies of the United States with respect to the establishment of a system of cooperation among the parties to The Hague Convention;

(ii) the policies to prevent abandonment, strengthen families, and to advance the placement of children in permanent families; and

(iii) policies that promote the well-being of children.

(C) DIPLOMATIC REPRESENTATION.—Subject to the direction of the President and the Secretary of State, the Ambassador at Large may represent the United States in matters and cases relevant to international adoption in—

(i) fulfillment of the responsibilities designated to the central authority under title I of the Intercountry Adoption Act of 2000 (42 U.S.C. 14911 et seq.);

(ii) contacts with foreign governments, intergovernmental organizations, and specialized agencies of the United Nations and other international organizations of which the United States is a member; and

(iii) multilateral conferences and meetings relevant to international adoption.

(D) INTERNATIONAL POLICY DEVELOPMENT.—To advise and support the Secretary of State and other relevant Bureaus in the development of sound policy regarding child protection and intercountry adoption.

(E) REPORTING RESPONSIBILITIES.—The Ambassador at Large shall have the following reporting responsibilities:

(i) IN GENERAL.—The Ambassador at Large shall assist the Secretary of State and other relevant Bureaus in preparing those portions of the Human Rights Reports that relate to the abduction, sale, and trafficking of children.

(ii) ANNUAL REPORT ON INTERCOUNTRY ADOPTION.—On September 1 of each year, the Secretary of State, with the assistance of the Ambassador at Large, shall prepare and transmit to Congress an annual report on intercountry adoption. Each annual report shall include—

(I) a description of the status of child protection and adoption in each foreign country, including—

(aa) trends toward improvement in the welfare and protection of children and families;

(bb) trends in family reunification, domestic adoption, and intercountry adoption;

(cc) movement toward ratification and implementation of The Hague Convention; and

(dd) census information on the number of children in orphanages, foster homes, and other types of nonpermanent residential care;

(II) the number of intercountry adoptions by United States citizens, regardless of whether the adoption occurred under The Hague Convention, including the country from which each child emigrated, the State in which each child resides, and the country in which the adoption was finalized;

(III) the number of intercountry adoptions involving emigration from the United States, regardless of whether the adoption occurred under The Hague Convention, including the country where each child now resides and the State from which each child emigrated;

(IV) the number of Hague Convention placements for adoption in the United States that were disrupted, including the country from which the child emigrated, the age of the child, the date of the placement for adoption, the reasons for the disruption, the resolution of the disruption, the agencies that handled the placement for adoption, and the plans for the child, and in addition, any information regarding disruption or dissolution of adoptions of children from other countries received pursuant to section 422(b)(4) of the Social Security Act;

(V) the average time required for completion of an adoption, set forth by the country from which the child emigrated;

(VI) the current list of agencies accredited and persons approved under the Intercountry Adoption Act of 2000 (42 U.S.C. 14901 et seq.) to provide adoption services;

(VII) the names of the agencies and persons temporarily or permanently debarred under the Intercountry Adoption Act of 2000 (42 U.S.C. 14901 et seq.), and the reasons for the debarment;

(VIII) the range of adoption fees charged in connection with Hague Convention adoptions involving adoptions by United States citizens and the median of such fees set forth by the country of origin;

(IX) the range of fees charged for accreditation of agencies and the approval of persons in the United States engaged in providing adoption services under The Hague Convention; and

(X) recommendations of ways the United States might act to improve the welfare and protection of children and families in each foreign country.

(c) FUNCTIONS OF OFFICE.—The Office shall have the following 6 functions:

(1) APPROVAL OF A FAMILY TO ADOPT.—To approve or disapprove the eligibility of United States citizens to adopt foreign born children.

(2) CHILD ADJUDICATION.—To adjudicate the status of a child born abroad as an adoptable child.

(3) FAMILY SERVICES.—To provide assistance to United States citizens engaged in the intercountry adoption process in resolving problems with respect to that process and to track intercountry adoption cases so as to ensure that all such adoptions are processed in a timely manner.

(4) INTERNATIONAL POLICY DEVELOPMENT.—To advise and support the Ambassador at Large and other relevant Bureaus in the development of sound policy regarding child protection and intercountry adoption.

(5) CENTRAL AUTHORITY.—To assist the Secretary of State in carrying out duties of the central authority as defined in section 3 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14902).

(6) ADMINISTRATION.—To perform administrative functions related to the functions performed under paragraphs (1) through (5), including legal functions and congressional liaison and public affairs functions.

(d) ORGANIZATION.—

(1) IN GENERAL.—All functions of the Office shall be performed by officers housed in a centralized office located in Washington, D.C. Within the Washington, D.C., office, there shall be 6 divisions corresponding to the 6 functions of the Office. All 6 divisions and their respective directors shall report directly to the Ambassador at Large.

(2) APPROVAL TO ADOPT.—The division responsible for approving parents to adopt shall be divided into regions of the United States as follows:

(A) Northwest.

(B) Northeast.

(C) Southwest.

(D) Southeast.

(E) Midwest.

(F) West.

(3) CHILD ADJUDICATION.—To the extent practicable, the division responsible for the adjudication of foreign born children as adoptable shall be divided by world regions which correspond to those currently used by other divisions within the Department of State.

(4) USE OF INTERNATIONAL FIELD OFFICERS.—Nothing in this section shall be construed to prohibit the use of international field officers posted abroad, as necessary, to fulfill the requirements of this Act.

(e) QUALIFICATIONS AND TRAINING.—In addition to meeting the employment requirements of the Department of State, officers employed in any of the 6 divisions of the Office shall undergo extensive and specialized training in the laws and processes of intercountry adoption as well as understanding the cultural, medical, emotional, and social issues surrounding intercountry adoption and adoptive families. The Ambassador at Large shall, whenever possible, recruit and hire individuals with background and experience in intercountry adoptions.

(f) USE OF ELECTRONIC DATABASES AND FILING.—To the extent possible, the Office shall make use of centralized, electronic databases and electronic form filing.

SEC. 102. RECOGNITION OF CONVENTION ADOPTIONS IN THE UNITED STATES.

Section 505(a)(1) of the Intercountry Adoption Act of 2000 (42 U.S.C. 14901 note) is amended by inserting ''301, 302,'' after ''205,''.

SEC. 103. TECHNICAL AND CONFORMING AMENDMENT.

Section 104 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14914) is repealed.

Subtitle B—Transition Provisions

SEC. 111. TRANSFER OF FUNCTIONS.

(a) IN GENERAL.—All functions under the immigration laws of the United States with respect to the adoption of foreign born children by United States citizens and their admission to the United States that have been vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization, the Immigration and Naturalization Service (or any officer, employee, or component thereof), of the Department of Homeland Security (or any officer, employee, or component thereof) immediately prior to the effective date of this title, are transferred to the Office on such effective date for exercise by the Ambassador at Large in accordance with applicable laws and title II of this Act.

(b) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, the Ambassador at Large may, for purposes of performing any function transferred to the Ambassador at Large under subsection (a), exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function pursuant to this title.

SEC. 112. TRANSFER OF RESOURCES.

Subject to section 1531 of title 31, United States Code, upon the effective date of this title, there are transferred to the Ambassador at Large for appropriate allocation in accordance with section 115, the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Immigration and Naturalization Service or the Department of Homeland Security in connection with the functions transferred pursuant to this title.

SEC. 113. INCIDENTAL TRANSFERS.

The Ambassador at Large may make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this title. The Ambassador at Large shall provide for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

SEC. 114. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Ambassador at Large, the former Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred pursuant to this title; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(b) PROCEEDINGS.—

(1) PENDING.—The transfer of functions under section 111 shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office whose functions are transferred pursuant to this title, but such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(c) SUITS.—This title shall not affect suits commenced before the effective date of this title, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of State, the Immigration and Naturalization Service, or the Department of Homeland Security, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred pursuant to this section, shall abate by reason of the enactment of this Act.

(e) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this title such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this title shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

Subtitle C—Effective Date

SEC. 121. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this Act.

TITLE II—REFORM OF UNITED STATES LAWS GOVERNING INTERCOUNTRY ADOPTIONS

SEC. 201. AUTOMATIC ACQUISITION OF CITIZENSHIP FOR ADOPTED CHILDREN BORN OUTSIDE THE UNITED STATES.

(a) AMENDMENTS OF AUTOMATIC CITIZENSHIP PROVISIONS.—Section 320 of the Immigration and Nationality Act (8 U.S.C. 1431) is amended—

(1) by amending the section heading to read as follows: ''CHILDREN BORN OUTSIDE THE UNITED STATES; CONDITIONS UNDER WHICH CITIZENSHIP AUTOMATICALLY ACQUIRED''; and

(2) in subsection (a), by striking paragraphs (1) through (3) and inserting the following:

''(1) Upon the date the adoption becomes full and final, at least 1 parent of the child is a citizen of the United States, whether by birth or naturalization, who has been physically present in the United States or its outlying possessions for a period or periods totaling not less than 5 years, at least 2 of which were after attaining the age of 14 years. Any periods of honorable service in the Armed Forces of the United States, or periods of employment with the United States Government or with an international organization as that term is defined in section 1 of the International Organizations Immunities Act (22 U.S.C. 288) by such citizen parent, or any periods during which such citizen parent is physically present abroad as the dependent unmarried son or daughter and a member of the household of a person—

''(A) honorably serving with the Armed Forces of the United States; or

''(B) employed by the United States Government or an international organization as defined in section 1 of the International Organizations Immunities Act (22 U.S.C. 288);

may be included in order to satisfy the physical presence requirement of this paragraph.

''(2) The child is an adoptable child described in section 101(c)(3).

''(3) The child is the beneficiary of a full and final adoption decree entered by a foreign government or a court in the United States.

''(4) For purposes of this subsection, the term ''full and final adoption'' means an adoption—

''(A) that is completed under the laws of the child's country of origin or the State law of the parent's residence;

''(B) under which a person is granted full and legal custody of the adopted child;

''(C) that has the force and effect of severing the child's legal ties to the child's biological parents;

''(D) under which the adoptive parents meet the requirements of section 205 of the Intercountry Adoption Reform Act; and

''(E) under which the child has been adjudicated to be an adoptable child in accordance with section 206 of the Intercountry Adoption Reform Act.''.

(b) EFFECTIVE DATE.—This section shall take effect as if enacted on January 1, 1950.

SEC. 202. REVISED PROCEDURES.

(a) IN GENERAL.—Notwithstanding any other provision of law, the following requirements shall apply with respect to the adoption of foreign born children by United States citizens:

(1) Upon completion of a full and final adoption, the Secretary of State shall issue a United States passport and a Consular Report of Birth for a child who satisfies the requirements of section 320 of the Immigration and Nationality Act (8 U.S.C. 1431), as amended by section 201 of this Act, upon application by a United States citizen parent.

(2) An adopted child described in paragraph (1) shall not require the issuance of a visa for travel and admission to the United States but shall be admitted to the United States upon presentation of a valid, unexpired United States passport.

(3) No affidavit of support under section 213A of the Immigration and Nationality Act (8 U.S.C. 1183a) shall be required in the case of any adoptable child.

(4) The Secretary of State shall not require an adopted child described in paragraph (1) to undergo a medical exam.

(b) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall prescribe such regulations as may be necessary to carry out this section.

SEC. 203. NONIMMIGRANT VISAS FOR CHILDREN TRAVELING TO THE UNITED STATES TO BE ADOPTED BY A UNITED STATES CITIZEN.

(a) IN GENERAL.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) by striking ''or'' at the end of subparagraph (U);

(2) by striking the period at the end of subparagraph (V) and inserting ''; or''; and

(3) by adding at the end the following:

''(W) an adoptable child who is coming into the United States for adoption by a United States citizen and a spouse jointly or by an unmarried United States citizen at least 25 years of age, who has been approved to adopt by the Ambassador at Large, acting through the Office of Intercountry Adoptions established under section 101(a) of the Intercountry Adoption Reform Act.''.

(b) TERMINATION OF PERIOD OF AUTHORIZED ADMISSION.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following:

''(q) In the case of a nonimmigrant described in section 101(a)(15)(W), the period of authorized admission shall terminate on the earlier of—

''(1) the date on which the adoption of the nonimmigrant is completed by the courts of the State where the parents reside; or

''(2) the date that is 2 years after the date of admission of the nonimmigrant into the United States.''.

(c) TEMPORARY TREATMENT AS LEGAL PERMANENT RESIDENT.—Notwithstanding any other law, all benefits and protections that apply to a legal permanent resident shall apply to a nonimmigrant described in section 101(a)(15)(W) of the Immigration and Nationality Act, as added by subsection (a), pending a full and final adoption.

(d) EXCEPTION FROM IMMUNIZATION REQUIREMENT FOR CERTAIN ADOPTED CHILDREN.—Section 212(a)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(C)) is amended—

(1) in the heading by striking ''10 YEARS'' and inserting ''18 YEARS''; and

(2) in clause (i), by striking ''10 years'' and inserting ''18 years''.

(e) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall prescribe such regulations as may be necessary to carry out this section.

SEC. 204. DEFINITION OF "ADOPTABLE CHILD".

(a) IN GENERAL.—Section 101(c) of the Immigration and Nationality Act (8 U.S.C. 1101(c)) is amended by adding at the end the following:

''(3) The term ''adoptable child'' means an unmarried person under the age of 18—

''(A) whose biological parents (or parent, in the case of a child who has one sole or surviving parent) or other persons or institutions that retain legal custody of the child—

''(i) have freely given their written irrevocable consent to the termination of their legal relationship with the child, and to the child's emigration and adoption;

''(ii) are unable to provide proper care for the child, as determined by the appropriate governmental authority of the child's residence; or

''(iii) have voluntarily relinquished the child to governmental authorities pursuant to the law of the child's residence;

''(B) with respect to whom the Secretary of State is satisfied that the proper care will be furnished the child if admitted to the United States;

''(C) with respect to whom the Secretary of State is satisfied that the purpose of the adoption is to form a bona fide parent-child relationship and that the parent-child relationship of the child and the biological parents has been terminated (and in carrying out both obligations under this subparagraph the Secretary of State, in consultation with the Secretary of Homeland Security, may consider whether there is a petition pending to confer immigrant status on one or both of the biological parents);

''(D) with respect to whom the Secretary of State, in consultation with the Secretary of Homeland Security, is satisfied that the person is not a security risk; and

''(E) whose adoption and emigration to the United States has been approved by the competent authority of the country of the child's place of birth or residence.''.

(b) CONFORMING AMENDMENT.—Section 204(d) of the Immigration and Nationality Act (8 U.S.C. 1154(d)) is amended by inserting ''and an adoptable child as defined in section 101(c)(3)'' before ''unless a valid home-study''.

SEC. 205. APPROVAL TO ADOPT.

(a) IN GENERAL.—Prior to the issuance of a visa under section 101(a)(15)(W) of the Immigration and Nationality Act, as added by section 203(a) of this Act, or the issuance of a full and final adoption decree, the United States citizen adoptive parent shall have approved by the Office a petition to adopt. Such petition shall be subject to the same terms and conditions as are applicable to petitions for classification under section 204.3 of title 8 of the Code of Federal Regulations, as in effect on the day before the date of enactment of this Act.

(b) EXPIRATION OF APPROVAL.—Approval to adopt under this Act is valid for 24 months from the date of approval.

(c) EXPEDITED REAPPROVAL PROCESS OF FAMILIES PREVIOUSLY APPROVED TO ADOPT.—The Ambassador at Large shall prescribe such regulations as may be necessary to provide for an expedited and streamlined process for families who have been previously approved to adopt and whose approval has expired, so long as not more than 3 years have lapsed since the original application.

(d) DENIAL OF PETITION.—

(1) NOTICE OF INTENT.—If the officer adjudicating the petition to adopt finds that it is not readily approvable, the officer shall notify the petitioner, in writing, of the officer's intent to deny the petition. Such notice shall include the specific reasons why the petition is not readily approvable.

(2) PETITIONERS RIGHT TO RESPOND.—Upon receiving a notice of intent to deny, the petitioner has 30 days to respond to such notice.

(3) DECISION.—Within 30 days of receipt of the petitioner's response the Office must reach a final decision regarding the eligibility of the petitioner to adopt. Notice of a formal decision must be delivered in writing.

(4) RIGHT TO AN APPEAL.—Unfavorable decisions may be appealed to the appropriate appellate jurisdiction of the Department of State, and if necessary, Federal court.

(5) REGULATIONS REGARDING APPEALS.—Not later than 6 months after the date of enactment of this Act, the Ambassador at Large shall promulgate formal regulations regarding the process for appealing the denial of a petition.

SEC. 206. ADJUDICATION OF CHILD STATUS.

(a) IN GENERAL.—Prior to the issuance of a full and final adoption decree or a visa under section 101(a)(15)(W) of the Immigration and Nationality Act, as added by section 203(a) of this Act—

(1) the Office shall obtain from the competent authority of the country of the child's residence a certification, together with documentary support, that the child sought to be adopted meets the description of an adoptable child; and

(2) within 30 days of receipt of the certification referred to in paragraph (1), the Office shall make a final determination on whether the certification and the documentary support are sufficient to meet the requirements of this section.

(b) PROCESS FOR DETERMINATION.—

(1) IN GENERAL.—The Ambassador at Large shall work with the competent authorities of the child's country of residence to establish a uniform, transparent, and efficient process for the exchange and approval of the certification and documentary support required under subsection (a).

(2) NOTICE OF INTENT.—If the Office finds that the certification submitted by the competent authority of the child's country of origin is not readily approvable, the Office shall—

(A) notify the competent authority and the prospective adoptive parents, in writing, of the specific reasons why the certification is not sufficient; and

(B) provide the competent authority and the prospective adoptive parents the opportunity to address the stated insufficiencies.

TITLE III—FUNDING

SEC. 301. FUNDS.

The Secretary of State shall provide the Ambassador at Large with such funds as may be necessary for—

(1) the hiring of staff for the Office;

(2) investigations conducted by the Office; and

(3) travel and other expenses necessary to carry out this Act.

Ms. LANDRIEU. Mr. President, two years ago, I had the distinct pleasure of spending an hour with the President of China, Jiang Jiamin. As you know, President Jiamin is tremendously busy and has numerous requests for personal meetings, but he agreed to meet with this particular U.S. delegation because of the importance of the subject we were there to discuss, international adoption. During this meeting, he shared with us that the Chinese believe every child born is born with a red string attached to their heart, the other end of which is tied to the ankle of their soul mate. It is because of this string, they believe, that soul mates eventually find each other and spend the rest of their lives together. It is his belief, that perhaps the same is true of children who are adopted. That when they are born, their hearts have a string that is tied to the ankle of their forever family, and it is because of that heartstring that they eventually find one another.

I will treasure the memory of this meeting forever. Not only because it was an extreme honor to meet with such a learned and distinguished leader, but because it reminds me of how profound adoption is. 19,237 children were adopted by American citizens last year. 18,477 children the year before that, 16,363 in 1999 and 15,744 children in 1998. That is almost 100,000 children in four years. I think it is easy for us to understand the impact that these adoptions have had on the adoptive families and the orphan children, but what I would like to focus on this morning is the impact that this has for

the diplomatic relations between the United States and countries throughout the world.

In sheer numbers alone, the impact is evident. In real terms, these children are ''mini-ambassadors'' to 200,000 American citizen parents, 400,000 grandparents, conservatively 800,000 aunts and uncles, and 300,000 siblings. According to a recent report by the U.S. Census Bureau, 1.6 million people in the United States were adopted, fifteen percent of them from abroad. Because of this magnificent process, communities all over the U.S. are deepening this understanding and affinity for the people of the world. September 11 reminded us of the importance of continuing to build bridges with the nations of the world. International adoption is one very effective and lasting way to build these bridges.

Over this past year, I have also had the privilege of meeting with the Presidents of Kazakstan, Romania and Russia and high-ranking government officials from Cambodia, Vietnam, Guatemala, Africa, and the Ukraine. Each time the message is the same. They want to do what they can to make the Hague more than just a piece of paper with 59 signatures on it. They are looking to the U.S. to lead the way toward a system of international adoption and child welfare that is based on best practices. A system comprised of meaningful protections for the adoptive parents, the birth parents, and perhaps most importantly the children; a system that universally recognizes that a government institution is not and cannot be an adequate replacement for a family and works toward the shared mission of finding every child in this world a loving and nurturing, permanent family.

I am proud to be here today, along with my colleague, the Senior Senator from Oklahoma, to introduce legislation that will take us in that direction. What it proposes to do is simple, but what it might help us to achieve is limitless. Simply put, this bill hopes to streamline the existing international adoption process, consolidate its federal functions into one agency and to empower that agency with the staff and resources it needs to represent the United States, the largest beneficiary from international adoption. With this office in place, the United States can begin to lead the world community in forging an international system of adoption that protects the interests of all those involved.

Under current law the federal responsibility for international adoption lies with the Department of State and the U.S. Citizenship and Immigration Services. This dual jurisdiction gives rise to several problems including: lack of coordination, lack of accountability, duplication of efforts and unnecessary paperwork and fees for prospective adoptive families. It also impedes the State Departments ability to fulfill its responsibilities as the central authority under the Hague Treaty on Cooperation in International Adoption.

Now, you may be asking yourself, as I have many times, what does adoption have to do with immigration? You see, under current law children adopted by United States citizens abroad are treated as immigrants, forced to apply for an immigrant visa to enter the United States. This process is not only impractical, since these children obtain automatic citizenship upon entry into the United States, it is inequitable. Children born to U.S. citizens abroad are conferred automatic citizenship upon their birth and are therefore permitted to travel to the United States on a U.S. passport. Children adopted by United States citizens should be afforded this same protection. This bill affords them that protection.

This bill also proposes that we update the current law definitions of an ''adoptable child'' to reflect the types of children in need of homes throughout the world. The current law definition of ''orphan'' reflects the reality for which it was created; to help U.S. citizens adopt children orphaned by the wars in Korea and Vietnam. As such, it is an extremely narrow definition that in many cases prohibits a family from bringing their newly adopted child to the United States.

In creating an Ambassador at Large for international adoption, this bill hopes to provide the leadership and high level diplomatic representation so desperately needed in international adoption. Under his or her leadership, the Office of International Adoptions will be able to take the proactive measures necessary to limit corruption and ensure that adoptions are performed in the most efficient, transparent manner possible. The Hague Treaty already gives the State Department this responsibility; this bill is designed to help them fulfill it.

Let me tell you why we need to act now to pass this legislation. Because of the lack of consistent leadership by the United States in this area, many countries around the world are in ''crisis mode'' and have been forced to take unilateral actions to solve perceived problems in the system. For two years, there has been a moratorium on international adoption in Romania. The second anniversary of the INS issued suspension in Cambodia is fast approaching. The governments of Guatemala and Vietnam have taken actions to limit the number of international adoptions. In each and every one of these cases, the foreign governments have expressed frustration with the lack of action on the part of the U.S. to limit corruption or close potential loopholes in the system. The end result, hundreds and thousands of children are left in orphanages. This cannot be.

I have spent the past two years talking to foreign governments, agencies, and most importantly, adoptive parents and they tell me that this legislation is needed. I urge my colleagues to join me in supporting this legislation and I look forward to seeing it passed as soon as possible.

Mr. INHOFE. Mr. President, I rise today, National Adoption Day, to join my colleagues in introducing this bill to give children everyhwere around the world a greater chance to find a loving, permanent home.

This bill, the Intercountry Adoption Reform Act (ICARE), will automatically make a child who is adopted from another country a citizen the minute the adoption is finalized.

This legislation has a personal impact for me. My granddaughter was adopted from Ethiopia a few years ago. Even though she is a vital part of our family, she was not a citizen when she arrived. We now have to do work to make the law recognize her in the same light we do—as a legal member of our family and a lawful citizen of this country—entitled to the same rights and privileges as all my other biological grandchildren.

ICARE will ensure that foreign-born children, such as my granddaughter, will be treated the same as biological children born abroad to the same parent who is an American citizen. It will help streamline international adoptions and implement best practices for all adoptions.

Situations such as one that happened in my State of Oklahoma would not have happened under this legislation. Anna Lynn Fincher was born in the Philippines and adopted by a U.S. military couple in the Philippines. Even though they adopted Anna Lynn in the Philippines, they never brought her to the United States. Sadly, both of Anna Lynn's American parents died while in the Philippines—before Anna Lynn was able to set foot on American soil and become a U.S. citizen. As a result, she had to be granted Humanitarian Parole, which is granted to people in extreme circumstances, so that she could come to the United States and be adopted by her adoptive sister.

Under ICARE, Anna Lynn would have become a citizen as soon as her adoption was finalized—eliminating the need for Humanitarian Parole and another adoption.

Providing children, such as my granddaughter and Anna Lynn, with a permanent, stable family is the most precious gift we can give a child. I am proud to lend my support to this important legislation that will help give these young people a home.

By Mr. CORZINE:

S. 1935. A bill to amend the Public Health Service Act to require employers to offer health care coverage for all employees, to amend the Social Security Act to guarantee comprehensive health care coverage for all children born after 2001, and for other purposes; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today to introduce legislation on an issue that is of utmost importance to me, to the State of New Jersey, and to our Nation: providing universal access to health insurance.

This is an issue I talked about incessantly during my campaign, because I strongly believe it is a national outrage that we are the only industrial society on earth that does not insure the health of all its people.

I begin with a basic premise. Health care is a basic right, and neither the government nor the private sector is doing enough to secure that right for everyone.

Unfortunately, as I have traveled across the State of New Jersey, I have talked to many men and women who lay awake nights trying to figure out how to care for loved ones. I've met people who work two jobs to support their family, and end up taking their kids to the emergency room when they're sick because they are unable to afford preventive care and timely treatment for their children.

In 2002, more than 43 million Americans—or a staggering 17 percent of the total nonelderly population—were uninsured. In my State of New Jersey, 1.1 million citizens lack health insurance.

The number of uninsured grew steadily throughout the 1990's until 1999, when modest increases in employer coverage due to the robust economy, coupled with expansion and improved enrollment in the State Children's Health Insurance Program (CHIP), led to the first decline in the number of uninsured in over a decade. Unfortunately, the number of uninsured is on the rise again, as State budget deficits have forced deep cuts in public health programs and as unemployment has risen.

Unemployment, however, is not the leading cause of being uninsured. In fact, more than eighty percent of the uninsured—four out of five Americans—are in working families. Seventy-two percent live in households with a full-time worker, and 11 percent live with a part-time worker. Low-wage workers are at greater risk of being uninsured, as are unskilled laborers, service workers, and those employed in small businesses.

The consequences of our Nation's significant uninsured population are devastating for our health and our economy.

The uninsured are significantly more likely to delay or forego needed care and are less likely to receive preventive care.

Delaying or not receiving treatment can lead to more serious illness and avoidable health problems, which in turn results in unnecessary and costly hospitalizations. For example, the uninsured are more likely than those with insurance to be hospitalized for conditions that could have been avoided, such as pneumonia and uncontrolled diabetes. In addition, the uninsured with various forms of cancer are more likely to be diagnosed with late stage cancer.

Indeed, my own State of New Jersey struggles to deal with the costs of charity care provided to the uninsured. In 2002, New Jersey hospitals provided $624 million in charity care to the uninsured and underinsured, but were only reimbursed for $381 million of these costs.

In sum, health insurance coverage matters. It matters to families who don't receive adequate care, and it matters to communities. We ignore the issue of the uninsured at our peril and at a great cost to the quality of life—and to the very life—of our citizens. That is why today I am introducing legislation that will provide universal access to health care for all Americans. My legislation, the Universal Secure Access to (USA) Health Care Act has several components:

First, we must cover all children. Despite the success of the CHIP program, over nine million children are still uninsured. These children are less likely to have immunizations and receive less preventive care, which often results in health problems later in life and also leads to poor school performance. The millions of uninsured children cannot control whether they have health care coverage, and it is a measure of the failure of our politics that we do not take care of our children.

My proposal, modeled on legislation introduced by Senator ROCKEFELLER, would create a MediKids program that would provide universal health insurance for children up to age 23 through a new federal program modeled after Medicare, but with benefits tailored toward the needs of children.

Maintaining the health of our children is critical to the future of our country. Indeed, it is clear that providing health care coverage to children impacts more than just their health—it impacts their ability to learn, their ability to thrive, and their ability to become productive members of society. MediKids simplifies the confusing array of health insurance assistance programs for children today and guarantees them coverage until adulthood.

The next step is to demand that the private sector do its part. Under my bill, large employers would be required to provide health coverage for all their workers. A minimum wage in America should include with it minimum benefits, among them health insurance. But unfortunately, the current system puts the responsible employer who provides health insurance at a disadvantage relative to the employers who do not. When employers fail to cover employees, society pays their share of the bill at the emergency room. In fact, the universal health care delivered in the emergency rooms of our community hospitals is the most expensive and short-sighted approach to address the problem of the uninsured Americans.

Under my bill, small businesses, the self-employed and unemployed would be able to buy coverage in the Federal Employee Health Benefit Program. If it is good enough for Senators, it is good enough for America. Those who are between the ages of 55 and 64 would be able to buy-in to the Medicare program. My legislation would provide tax credits to the self-employed to assist them in purchasing health insurance and would allow them to buy into the FEHBP program. But although I am passionate about universal access to health care, I realize we can't get there yet. Not because the popular will is not there, but because the political will isn't.

Therefore I believe we can and should be doing all that we can to make incremental progress. So I support incremental changes, starting with the most vulnerable populations, and building on Medicaid and CHIP, success public programs. That is why I am a strong supporter of the Family Care proposal, which would cover the parents of children already enrolled in the CHIP program.

I was also pleased to be an original cosponsor of Senator BINGAMAN's bipartisan legislation, the Start Healthy, Stay Healthy Act, which would expand coverage for children and pregnant women. It is based on the common sense principle that children deserve to start life healthy and stay healthy.

Health professionals agree that one of the best ways to ensure the birth of a healthy baby is to ensure adequate prenatal care. Yet as a Nation, we do far too little to provide this type of care. This is evident by the stark statistics on the subject: the United States ranks 27th in infant mortality and 21st in material mortality—the worst among developed nations. The statistics in New Jersey are equally stark: New Jersey ranks an abysmal 44th among the States in the percentage of mothers receiving adequate prenatal care, 34th in low birth weights, and 12th in infant mortality rates.

Specifically, this important legislation would allow States to cover prenatal care services for women up to 185 percent of the Federal poverty level through the Children's Health Insurance (CHIP) Program. It would also allow States to extend coverage to children under the CHIP program through age 20, and would increase CHIP funding by $2.65 billion over four years.

I often say that we are not a Nation of equal outcomes, but we should be a Nation of equal beginnings.

Until we give all Americans access to health care, however, we cannot live up to that promise.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1935

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Universal Secure Access to Health Care Act of 2003''.

(b) FINDINGS.—

(1) In 2002, 43,600,000 Americans, nearly 17.2 percent of the total nonelderly population, were uninsured.

(2) The number of uninsured has grown by nearly 10,000,000 over the past decade.

(3) While 61 percent of Americans receive health insurance coverage through their employers, millions of Americans lack access to such coverage either because their employer does not offer such coverage or the employer cannot afford to pay for such coverage.

(4) Today, fewer Americans have health insurance through their employment to cover themselves and their dependents than 10 years ago.

(5) Eighty-two percent of the individuals that are uninsured in the United States are in working families.

(6) Low-wage workers have more difficulty obtaining affordable health care coverage since such workers are less likely than high-wage workers to have such coverage offered as a benefit by an employer, and prohibitive premiums for individually purchased coverage often prevents such workers from purchasing such coverage independently.

(7) The consequences of our nation's significant uninsured population are devastating.

(8) The uninsured are significantly more likely to delay or forego needed health care.

(9) The uninsured are less likely to receive preventive health care.

(10) Delaying or foregoing health care treatment when such treatment is needed can produce unnecessarily dire and expensive results. More severe health care conditions may arise and more expensive health care treatments, such as costly hospitalizations, may be necessary even though such conditions or treatments could have been avoided by the initial provision of adequate and timely health care. The uninsured, for example, are more likely to be hospitalized for conditions that could have been avoided, such as pneumonia and uncontrolled diabetes, than the insured. The uninsured with various forms of cancer are also more likely to be diagnosed with late stage cancer than the insured.

SEC. 2. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

"TITLE XXVIII—UNIVERSAL HEALTH INSURANCE COVERAGE

"Subtitle A—Employer Mandated Health Insurance Coverage

"SEC. 2801. EMPLOYER MANDATED HEALTH INSURANCE COVERAGE.

''(a) IN GENERAL.—Each employer shall offer to enroll each of its employees and their families in a standard health benefit plan.

''(b) STANDARD HEALTH BENEFIT PLAN.—For purposes of this title, the term 'standard health benefit plan' means a plan that provides benefits for health care items and services that are actuarily equivalent or greater in value than the benefits offered as of January 1, 2000, under the Blue Cross/Blue Shield Standard Option Plan provided under the Federal Employees Health Benefit Program under chapter 89 of title 5, United States Code.

''(c) PART-TIME EMPLOYEES.—Subsection (a) shall apply to part-time employees.

"SEC. 2802. TYPE OF COVERAGE.

''(a) IN GENERAL.—Each standard health benefit plan offered by an employer under section 2801(a) shall conform to the requirements of this section.

''(b) PROHIBITION AGAINST DISCRIMINATION.—A standard health benefit plan offered by an employer under section 2801(a) shall not establish rules for eligibility of any individual to enroll under the plan or exclude or otherwise limit any individual from coverage under the plan based on—

''(1) medical history;

''(2) health status;

''(3) a preexisting medical condition, disease, or disorder; or

''(4) genetic information.

''(c) OPEN ENROLLMENT.—A standard health benefit plan offered by an employer under section 2801(a) shall offer an annual open enrollment period during which an individual may change enrollment from such plan to another standard health benefit plan offered by such employer.

''(d) MEDICALLY NECESSARY SERVICES.—A standard health benefit plan offered by an employer under section 2801(a) shall, if such plan provides coverage for a certain health care item or service, provide coverage for such item or service if a doctor determines that such item or service is medically necessary.

''(e) DATE OF INITIAL COVERAGE.—In the case of an employee enrolled in a standard health benefit plan provided by an employer under section 2801(a), the coverage under such plan shall commence not later than 5 days after the day on which the employee first performs an hour of service as an employee of that employer. No waiting period beyond this initial 5-day period may be imposed regarding such coverage.

"SEC. 2803. PREMIUMS.

''(a) IN GENERAL.—Each employer shall—

''(1) contribute to the cost of any standard health benefit plan that an employee has enrolled in in accordance with this section; and

''(2) withhold from wages of an employee, the employee share of the premium assessed for coverage under the standard health benefit plan.

''(b) CONTRIBUTION.—

''(1) EMPLOYER SHARE.—

''(A) FULL-TIME EMPLOYEES.—Each employer who has enrolled an employee in a standard health benefit plan shall contribute not less than 72 percent of the monthly premium for such employee.

''(B) PART-TIME EMPLOYEES.—

''(i) PRO-RATED PORTION PAID.—Each employer who has enrolled a part-time employee in a standard health benefit plan shall pay a portion of the monthly premium for such employee that is pro-rated to correspond with the number of hours of work that such employee has provided during the past month.

''(ii) EXCEPTION.—No employer contribution is required under this section with respect to an employee who works less than 10 hours per week.

''(2) EMPLOYEE SHARE.—

''(A) IN GENERAL.—Each employee enrolled in a standard health benefit plan under section 2801(a) shall pay the remaining portion of the monthly premium after payment by the employer as required under subsection (a).

''(B) PART-TIME EMPLOYEES.—An employee who is enrolled in a standard health benefit plan under section 2801(a) and works for such employer for not more than 30 hours and not less than 10 hours per week shall be eligible for a subsidy to aid such employee in paying his or her portion of the monthly premium.

''(3) LOW-INCOME EMPLOYEES.—An employee who is enrolled in a standard health benefit plan under section 2801(a) whose family income does not exceed 250 percent of the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) as applicable to a family of the size involved, shall be eligible to receive a subsidy from the State as described in subtitle B to aid in payment of premiums.

"SEC. 2804. ENFORCEMENT.

''(a) STATE INELIGIBILITY FOR PUBLIC HEALTH SERVICE ACT FUNDS.—An employer that is a State or political subdivision of a State or an agency or instrumentality of a State or political subdivision that does not comply with the requirements of this title shall not be eligible to receive a grant, contract, cooperative agreement, loan, or loan guarantee under this Act.

''(b) CIVIL PENALTY FOR PRIVATE EMPLOYERS.—

''(1) IN GENERAL.—Any nongovernmental employer that does not comply with this title shall be subject to a civil penalty of not more than 10 percent of the total amount of the employer's expenditures for wages for employees in that year.

''(2) ASSESSMENT PROCEDURE.—A civil money penalty under this section shall be assessed by the Secretary and collected in a civil action brought by the United States in a United States district court. The Secretary shall not assess such a penalty on an employer until the employer has been given notice and an opportunity to present its views on such charge.

''(3) AMOUNT OF PENALTY.—In determining the amount of the penalty, or the amount agreed to in compromise, the Secretary shall consider the gravity of the noncompliance and the demonstrated good faith of the employer charged in attempting to achieve rapid compliance after notification of a violation of this title.

"SEC. 2805. DEFINITIONS.

''In this title:

''(1) EMPLOYER.—The term 'employer' means, with respect to a calendar year and plan year, an employer that employed an average of at least 50 full-time employees on business days during the preceding calendar year and employs not less than 50 employees on the first day of the plan year.

''(2) PART-TIME EMPLOYEE.—The term 'part-time employee' means any individual employed by an employer who works less than 40 hours a week.

''(3) WAITING PERIOD.—The term 'waiting period' means, with respect to a plan and an individual who is a potential beneficiary or participant in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan.noncompliance by the Secretary.

"SEC. 2806. EFFECTIVE DATE.

''This title shall take effect 2 years after the date of enactment of the Universal Secure Access to Health Care Act of 2003.

"Subtitle B—Individual and Employer Subsidies

"SEC. 2811. SUBSIDY PROGRAM.

''(a) IN GENERAL.—The Secretary shall establish a Federal program to award grants to States for State premium assistance programs.

''(b) FEDERAL PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish a Federal program that shall set all standards for administration of State programs, receive applications from States for the establishment of such programs, and receive reports from States regarding the developments of such programs.

''(2) REGULATIONS.—The Secretary shall promulgate regulations specifying requirements for State programs under this subtitle, including—

''(A) standards for determining eligibility for premium assistance;

''(B) standards for States operating programs under this subtitle which ensure that such programs are operated in a uniform manner with respect to application procedures, data processing systems, and such other administrative activities as the Secretary determines to be necessary; and

''(C) standards for accepting reports regarding developments of such programs.

''(3) CONTENT.—The regulations described in paragraph (2) shall require that a State program—

''(A) enable an individual to file an application for assistance with an agency designated by the State at any time, in person, by mail, or online;

''(B) provide for the use of an application form developed by the Secretary;

''(C) make applications accessible at locations where individuals are most likely to obtain the applications;

''(D) require individuals to submit revised applications to reflect changes in estimated family incomes, including changes in employment status of family members, during the year, and the State shall revise the amount of any premium assistance based on such a revised application; and

''(E) provide for verification of the information supplied in applications under this subtitle, including examining return information disclosed to the State.

''(4) APPLICATION.—The Secretary shall develop an application form for assistance to be used by a State which shall—

''(A) be simple in form and understandable to the average individual;

''(B) require the provision of information necessary to make a determination as to whether an individual is eligible for assistance, including a declaration of estimated income by the individual based, at the election of the individual—

''(I) on multiplying by a factor of 4 the individual's family income for the 3-month period immediately preceding the month in which the application is made; or

''(II) on estimated income for the entire year for which the application is submitted; and

''(C) require attachment of such documentation as deemed necessary by the Secretary in order to ensure eligibility for assistance.

''(c) STATE ADMINISTRATION.—

''(1) IN GENERAL.—A State shall have in effect a program for furnishing premium assistance in accordance with this subtitle.

''(2) DESIGNATION OF STATE AGENCY.—A State may designate any appropriate State agency to administer the program under this subtitle.

''(3) EFFECTIVENESS OF ELIGIBILITY.—A determination by a State that an individual is eligible for premium assistance shall be effective for the calendar year for which such determination is made unless a revised application indicates that an individual is no longer eligible for assistance.

"SEC. 2812. SUBSIDIES FOR LOW-INCOME WORKERS.

''(a) IN GENERAL.—A low-income worker shall be eligible for premium assistance if such worker is eligible under subsection (b).

''(b) ELIGIBILITY.—A low-income worker is eligible for premium assistance under subsection (a) if the State determines that such worker has a family income which does not exceed 250 percent of the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) as applicable to a family of the size involved.

''(c) AMOUNT OF ASSISTANCE.—The amount of premium assistance for a month for a low-income worker determined to be eligible under subsection (b) shall be determined by the Secretary.

''(d) PAYMENTS.—The amount of the premium assistance available to a low-income worker shall be paid by the State in which the individual resides directly to the standard health plan in which the individual is enrolled. Payments under the preceding sentence shall commence in the first month during which the individual is enrolled in a standard health benefit plan and determined to be eligible for premium assistance under this subtitle.

"SEC. 2813. SUBSIDIES FOR SMALL BUSINESS EMPLOYERS.

''(a) IN GENERAL.—A small business employer that offers to enroll its employees and their families in a standard health benefit plan shall be eligible for premium assistance if the State determines that such employer qualifies for such assistance under subsection (b).

''(b) ELIGIBILITY.—A small business employer is eligible for premium assistance if such employer employs an average of not more than 75 full-time employees on business days during the preceding calendar year and employs not more than 75 employees on the first day of the plan year.

''(c) AMOUNT OF ASSISTANCE.—The amount of premium assistance for a small business employer for a month shall be determined by the Secretary.

''(d) PAYMENTS.—The amount of the premium assistance available to a small business employer shall be paid by the State in which the business is located directly to the standard health benefit plan in which the employee of such business is enrolled. Payments under the preceding sentence shall commence in the first month during which the employee is enrolled in a standard health benefit plan and the employer is determined to be eligible for premium assistance under this subtitle.

"Subtitle C—Election of Coverage

"SEC. 2815. ELECTION OF COVERAGE.

''(a) IN GENERAL.—A small business employer as described in subsection (b) may elect to enroll its employees in—

''(1) a plan provided under the Federal Employees Health Benefit Program under chapter 89 of title 5, United States Code; or

''(2) the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), if such employees are not less than 50 years of age.

''(b) SMALL BUSINESS EMPLOYER.—In this section, the term 'small business employer' means an employer that employs an average of not more than 75 full-time employees on business days during the preceding calendar year and employs not more than 75 employees on the first day of the plan year.

"Subtitle D—Community Rating

"SEC. 2821. COMMUNITY RATING.

''(a) IN GENERAL.—Each State shall establish community rating areas in which standard health benefit plans shall offer a standard premium in accordance with this subtitle for enrollment for all eligible individuals.

''(b) COMMUNITY RATING AREAS.—

''(1) IN GENERAL.—In accordance with this subtitle, each State shall, subject to approval of the Secretary, provide for the division of the State into 1 or more community rating areas.

''(2) REVISION OF AREAS.—Each State may, subject to approval of the Secretary, redraw the boundaries of such community rating areas as described in paragraph (1) if such revision is reasonable or necessary.

''(3) MULTIPLE AREAS.—With respect to a community rating area—

''(A) no metropolitan statistical area in a State may be incorporated into more than 1 such area in the State;

''(B) the number of individuals residing within such an area may not be less than 250,000; and

''(C) no area incorporated in a community rating area may be incorporated into another such area.

''(4) NONDISCRIMINATION.—In establishing boundaries for community rating areas, a State shall not directly or through contractual arrangements—

''(A) deny or limit access to or the availability of health care services, or otherwise discriminate in connection with the provision of health care services; or

''(B) limit, segregate, or classify an individual in any way which would deprive or tend to deprive such individual of health care services, or otherwise adversely affect his or her access to health care services;

on the basis of race, national origin, sex, religion, language, income, age, sexual orientation, disability, health status, or anticipated need for health services.

''(5) COORDINATING MULTIPLE COMMUNITY RATING AREAS.—Nothing in this section shall be construed as preventing a State from coordinating the activities of 1 or more community rating areas in the State.

''(6) INTERSTATE COMMUNITY RATING AREAS.—Community rating areas with respect to interstate areas shall be established in accordance with rules established by the Secretary.

''(7) COORDINATION IN MULTI-STATE AREAS.—One or more States may coordinate their operations in contiguous community rating areas. Such coordination may include, the adoption of joint operating rules, contracting with standard health benefit plans, enforcement activities, and establishment of fee schedules for health providers.

''(c) OPEN ENROLLMENT.—Each State, based on rules and procedures established by the Secretary, shall specify a uniform annual open enrollment period for each community rating area during which all eligible individuals are permitted the opportunity to change enrollment among the standard health benefit plans offered to such individuals in such area under this Act. The initial annual open enrollment period shall be for a period of 90 days.

''(d) STANDARD PREMIUM.—Each standard health benefit plan shall establish within each community rating area in which the plan is to be offered a standard premium for enrollment of eligible individuals who seek enrollment in such plan.

''(e) UNIFORM PREMIUMS WITHIN COMMUNITY RATING AREAS.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), the standard premium for each group health plan to which this section applies shall be the same, but shall not include the costs of premium processing and enrollment.

''(2) APPLICATION TO ENROLLEES.—

''(A) IN GENERAL.—The premium charged for coverage in a group health plan which covers eligible employees and eligible individuals shall be the product of—

''(i) the standard premium (established under paragraph (1));

''(ii) in the case of enrollment other than individual enrollment, the family adjustment factor specified under subparagraph (B); and

''(iii) the age adjustment factor (specified under subparagraph (C)).

''(B) FAMILY ADJUSTMENT FACTOR.—

''(i) IN GENERAL.—The Secretary shall specify family adjustment factors that reflect the relative actuarial costs of benefit packages based on family classes of enrollment (as compared with such costs for individual enrollment).

''(ii) CLASSES OF ENROLLMENT.—For purposes of this subtitle, there are 4 classes of enrollment:

''(I) Coverage only of an individual (referred to in this subtitle as the 'individual' enrollment or class of enrollment).

''(II) Coverage of a married couple without children (referred to in this subtitle as the 'couple-only' enrollment or class of enrollment).

''(III) Coverage of an individual and one or more children (referred to in this subtitle as

the 'single parent' enrollment or class of enrollment).

''(IV) Coverage of a married couple and one or more children (referred to in this subtitle as the 'dual parent' enrollment or class of enrollment).

''(iii) REFERENCES TO FAMILY AND COUPLE CLASSES OF ENROLLMENT.—In this subtitle:

''(I) FAMILY.—The terms 'family enrollment' and 'family class of enrollment' refer to enrollment in a class of enrollment described in any subclause of clause (ii) (other than subclause (I)).

''(II) COUPLE.—The term 'couple class of enrollment' refers to enrollment in a class of enrollment described in subclause (II) or (IV) of clause (ii).

''(iv) SPOUSE; MARRIED; COUPLE.—

''(I) IN GENERAL.—In this subtitle, the terms 'spouse' and 'married' mean, with respect to an individual, another individual who is the spouse of, or is married to, the individual, as determined under applicable State law.

''(II) COUPLE.—The term 'couple' means an individual and the individual's spouse.

''(C) AGE ADJUSTMENT FACTOR.—The Secretary shall specify uniform age categories and maximum rating increments for age adjustment factors that reflect the relative actuarial costs of benefit packages among enrollees. For individuals who have attained age 18 but not age 65, the highest age adjustment factor may not exceed 3 times the lowest age adjustment factor.''.

SEC. 3. TAX DEDUCTION FOR SELF-EMPLOYED.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 is amended to read as follows:

''(l) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse, and taxpayer's dependents.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 4. ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended—

(1) by redesignating section 1859 and part D as section 1858 and part E, respectively; and

(2) by inserting after such section the following new part:

''PART D—PURCHASE OF MEDICARE BENEFITS BY CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE

''SEC. 1859. PROGRAM BENEFITS; ELIGIBILITY.

''(a) ENTITLEMENT TO MEDICARE BENEFITS FOR ENROLLED INDIVIDUALS.—

''(1) IN GENERAL.—An individual enrolled under this part is entitled to the same benefits under this title as an individual entitled to benefits under part A and enrolled under part B.

''(2) DEFINITIONS.—For purposes of this part:

''(A) FEDERAL OR STATE COBRA CONTINUATION PROVISION.—The term 'Federal or State COBRA continuation provision' has the meaning given the term 'COBRA continuation provision' in section 2791(d)(4) of the Public Health Service Act and includes a comparable State program, as determined by the Secretary.

''(B) FEDERAL HEALTH INSURANCE PROGRAM DEFINED.—The term 'Federal health insurance program' means any of the following:

''(i) MEDICARE.—Part A or part B of this title (other than by reason of this part).

''(ii) MEDICAID.—A State plan under title XIX.

''(iii) FEHBP.—The Federal employees health benefit program under chapter 89 of title 5, United States Code.

''(iv) TRICARE.—The TRICARE program (as defined in section 1072(7) of title 10, United States Code).

''(v) ACTIVE DUTY MILITARY.—Health benefits under title 10, United States Code, to an individual as a member of the uniformed services of the United States.

''(C) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term in section 2791(a)(1) of the Public Health Service Act.

''(b) ELIGIBILITY OF INDIVIDUALS AGE 62-TO-65 YEARS OF AGE.—

''(1) IN GENERAL.—Subject to paragraph (2), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

''(A) AGE.—As of the last day of the month, the individual has attained 62 years of age, but has not attained 65 years of age.

''(B) MEDICARE ELIGIBILITY (BUT FOR AGE).—The individual would be eligible for benefits under part A or part B for the month if the individual were 65 years of age.

''(C) NOT ELIGIBLE FOR COVERAGE UNDER GROUP HEALTH PLANS OR FEDERAL HEALTH INSURANCE PROGRAMS.—The individual is not eligible for benefits or coverage under a Federal health insurance program (as defined in subsection (a)(2)(B)) or under a group health plan (other than such eligibility merely through a Federal or State COBRA continuation provision) as of the last day of the month involved.

''(2) LIMITATION ON ELIGIBILITY IF TERMINATED ENROLLMENT.—If an individual described in paragraph (1) enrolls under this part and coverage of the individual is terminated under section 1859A(d) (other than because of age), the individual is not again eligible to enroll under this subsection unless the following requirements are met:

''(A) NEW COVERAGE UNDER GROUP HEALTH PLAN OR FEDERAL HEALTH INSURANCE PROGRAM.—After the date of termination of coverage under such section, the individual obtains coverage under a group health plan or under a Federal health insurance program.

''(B) SUBSEQUENT LOSS OF NEW COVERAGE.—The individual subsequently loses eligibility for the coverage described in subparagraph (A) and exhausts any eligibility the individual may subsequently have for coverage under a Federal or State COBRA continuation provision.

''(3) CHANGE IN HEALTH PLAN ELIGIBILITY DOES NOT AFFECT COVERAGE.—In the case of an individual who is eligible for and enrolls under this part under this subsection, the individual's continued entitlement to benefits under this part shall not be affected by the individual's subsequent eligibility for benefits or coverage described in paragraph (1)(C), or entitlement to such benefits or coverage.

''SEC. 1859A. ENROLLMENT PROCESS; COVERAGE.

''(a) IN GENERAL.—An individual may enroll in the program established under this part only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed by the Secretary consistent with the provisions of this section. Such regulations shall provide a process under which—

''(1) individuals eligible to enroll as of a month are permitted to pre-enroll during a prior month within an enrollment period described in subsection (b); and

''(2) each individual seeking to enroll under section 1859(b) is notified, before enrolling, of the deferred monthly premium amount the individual will be liable for under section 1859C(b) upon attaining 65 years of age as determined under section 1859B(c)(3).

''(b) ENROLLMENT PERIODS.—

''(1) INDIVIDUALS 62-TO-65 YEARS OF AGE.—In the case of individuals eligible to enroll under this part under section 1859(b)—

''(A) INITIAL ENROLLMENT PERIOD.—If the individual is eligible to enroll under such section for July 2002, the enrollment period shall begin on May 1, 2002, and shall end on August 31, 2002. Any such enrollment before July 1, 2002, is conditioned upon compliance with the conditions of eligibility for July 2002.

''(B) SUBSEQUENT PERIODS.—If the individual is eligible to enroll under such section for a month after July 2002, the enrollment period shall begin on the first day of the second month before the month in which the individual first is eligible to so enroll and shall end 4 months later. Any such enrollment before the first day of the third month of such enrollment period is conditioned upon compliance with the conditions of eligibility for such third month.

''(2) AUTHORITY TO CORRECT FOR GOVERNMENT ERRORS.—The provisions of section 1837(h) apply with respect to enrollment under this part in the same manner as they apply to enrollment under part B.

''(c) DATE COVERAGE BEGINS.—

''(1) IN GENERAL.—The period during which an individual is entitled to benefits under this part shall begin as follows, but in no case earlier than July 1, 2002:

''(A) In the case of an individual who enrolls (including pre-enrolls) before the month in which the individual satisfies eligibility for enrollment under section 1859, the first day of such month of eligibility.

''(B) In the case of an individual who enrolls during or after the month in which the individual first satisfies eligibility for enrollment under such section, the first day of the following month.

''(2) AUTHORITY TO PROVIDE FOR PARTIAL MONTHS OF COVERAGE.—Under regulations, the Secretary may, in the Secretary's discretion, provide for coverage periods that include portions of a month in order to avoid lapses of coverage.

''(3) LIMITATION ON PAYMENTS.—No payments may be made under this title with respect to the expenses of an individual enrolled under this part unless such expenses were incurred by such individual during a period which, with respect to the individual, is a coverage period under this section.

''(d) TERMINATION OF COVERAGE.—

''(1) IN GENERAL.—An individual's coverage period under this part shall continue until the individual's enrollment has been terminated at the earliest of the following:

''(A) GENERAL PROVISIONS.—

''(i) NOTICE.—The individual files notice (in a form and manner prescribed by the Secretary) that the individual no longer wishes to participate in the insurance program under this part.

''(ii) NONPAYMENT OF PREMIUMS.—The individual fails to make payment of premiums required for enrollment under this part.

''(iii) MEDICARE ELIGIBILITY.—The individual becomes entitled to benefits under part A or enrolled under part B (other than by reason of this part).

''(B) TERMINATION BASED ON AGE.—The individual attains 65 years of age.

''(2) EFFECTIVE DATE OF TERMINATION.—

''(A) NOTICE.—The termination of a coverage period under paragraph (1)(A)(i) shall take effect at the close of the month following for which the notice is filed.

''(B) NONPAYMENT OF PREMIUM.—The termination of a coverage period under paragraph (1)(A)(ii) shall take effect on a date determined under regulations, which may be determined so as to provide a grace period in

which overdue premiums may be paid and coverage continued. The grace period determined under the preceding sentence shall not exceed 60 days; except that it may be extended for an additional 30 days in any case where the Secretary determines that there was good cause for failure to pay the overdue premiums within such 60-day period.

''(C) AGE OR MEDICARE ELIGIBILITY.—The termination of a coverage period under paragraph (1)(A)(iii) or (1)(B) shall take effect as of the first day of the month in which the individual attains 65 years of age or becomes entitled to benefits under part A or enrolled for benefits under part B (other than by reason of this part).

''SEC. 1859B. PREMIUMS.

''(a) AMOUNT OF MONTHLY PREMIUMS.—

''(1) BASE MONTHLY PREMIUMS.—The Secretary shall, during September of each year (beginning with 2001), determine the following premium rates which shall apply with respect to coverage provided under this title for any month in the succeeding year:

''(A) BASE MONTHLY PREMIUM FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—A base monthly premium for individuals 62 years of age or older is equal to 1/12 of the base annual premium rate computed under subsection (b) for each premium area.

''(B) DEFERRED MONTHLY PREMIUMS FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—The Secretary shall, during September of each year (beginning with 2001), determine under subsection (c) the amount of deferred monthly premiums that shall apply with respect to individuals who first obtain coverage under this part under section 1859(b) in the succeeding year.

''(3) ESTABLISHMENT OF PREMIUM AREAS.—For purposes of this part, the term 'premium area' means such an area as the Secretary shall specify to carry out this part. The Secretary from time to time may change the boundaries of such premium areas. The Secretary shall seek to minimize the number of such areas specified under this paragraph.

''(b) BASE ANNUAL PREMIUM FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—

''(1) NATIONAL, PER CAPITA AVERAGE.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 1859(b)(1)(A) as if all such individuals were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

''(2) GEOGRAPHIC ADJUSTMENT.—The Secretary shall reduce, as determined appropriate, the amount determined under paragraph (1) for a premium area (specified under subsection (a)(3)) that has costs below the national average, in order to assure participation in all areas throughout the United States.

''(3) BASE ANNUAL PREMIUM.—The base annual premium under this subsection for months in a year for individuals 62 years of age or older residing in a premium area is equal to the average, annual per capita amount estimated under paragraph (1) for the year, adjusted for such area under paragraph (2).

''(c) DEFERRED PREMIUM RATE FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—The deferred premium rate for individuals with a group of individuals who obtain coverage under section 1859(b) in a year shall be computed by the Secretary as follows:

''(1) ESTIMATION OF NATIONAL, PER CAPITA ANNUAL AVERAGE EXPENDITURES FOR ENROLLMENT GROUP.—The Secretary shall estimate the average, per capita annual amount that will be paid under this part for individuals in such group during the period of enrollment under section 1859(b). In making such estimate for coverage beginning in a year before 2006, the Secretary may base such estimate on the average, per capita amount that would be payable if the program had been in operation over a previous period of at least 4 years.

''(2) DIFFERENCE BETWEEN ESTIMATED EXPENDITURES AND ESTIMATED PREMIUMS.—Based on the characteristics of individuals in such group, the Secretary shall estimate during the period of coverage of the group under this part under section 1859(b) the amount by which—

''(A) the amount estimated under paragraph (1); exceeds

''(B) the average, annual per capita amount of premiums that will be payable for months during the year under section 1859C(a) for individuals in such group (including premiums that would be payable if there were no terminations in enrollment under clause (i) or (ii) of section 1859A(d)(1)(A)).

''(3) ACTUARIAL COMPUTATION OF DEFERRED MONTHLY PREMIUM RATES.—The Secretary shall determine deferred monthly premium rates for individuals in such group in a manner so that—

''(A) the estimated actuarial value of such premiums payable under section 1859C(b), is equal to

''(B) the estimated actuarial present value of the differences described in paragraph (2). Such rate shall be computed for each individual in the group in a manner so that the rate is based on the number of months between the first month of coverage based on enrollment under section 1859(b) and the month in which the individual attains 65 years of age.

''(4) DETERMINANTS OF ACTUARIAL PRESENT VALUES.—The actuarial present values described in paragraph (3) shall reflect—

''(A) the estimated probabilities of survival at ages 62 through 84 for individuals enrolled during the year; and

''(B) the estimated effective average interest rates that would be earned on investments held in the trust funds under this title during the period in question.

''SEC. 1859C. PAYMENT OF PREMIUMS.

''(a) PAYMENT OF BASE MONTHLY PREMIUM.—

''(1) IN GENERAL.—The Secretary shall provide for payment and collection of the base monthly premium, determined under section 1859B(a)(1) for the age (and age cohort, if applicable) of the individual involved and the premium area in which the individual principally resides, in the same manner as for payment of monthly premiums under section 1840, except that, for purposes of applying this section, any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed a reference to the Trust Fund established under section 1859D.

''(2) PERIOD OF PAYMENT.—In the case of an individual who participates in the program established by this title, the base monthly premium shall be payable for the period commencing with the first month of the individual's coverage period and ending with the month in which the individual's coverage under this title terminates.

''(b) PAYMENT OF DEFERRED PREMIUM FOR INDIVIDUALS COVERED AFTER ATTAINING AGE 62.—

''(1) RATE OF PAYMENT.—

''(A) IN GENERAL.—In the case of an individual who is covered under this part for a month pursuant to an enrollment under section 1859(b), subject to subparagraph (B), the individual is liable for payment of a deferred premium in each month during the period described in paragraph (2) in an amount equal to the full deferred monthly premium rate determined for the individual under section 1859B(c).

''(B) SPECIAL RULES FOR THOSE WHO DISENROLL EARLY.—

''(i) IN GENERAL.—If such an individual's enrollment under such section is terminated under clause (i) or (ii) of section 1859A(d)(1)(A), subject to clause (ii), the amount of the deferred premium otherwise established under this paragraph shall be pro-rated to reflect the number of months of coverage under this part under such enrollment compared to the maximum number of months of coverage that the individual would have had if the enrollment were not so terminated.

''(ii) ROUNDING TO 12-MONTH MINIMUM COVERAGE PERIODS.—In applying clause (i), the number of months of coverage (if not a multiple of 12) shall be rounded to the next highest multiple of 12 months, except that in no case shall this clause result in a number of months of coverage exceeding the maximum number of months of coverage that the individual would have had if the enrollment were not so terminated.

''(2) PERIOD OF PAYMENT.—The period described in this paragraph for an individual is the period beginning with the first month in which the individual has attained 65 years of age and ending with the month before the month in which the individual attains 85 years of age.

''(3) COLLECTION.—In the case of an individual who is liable for a premium under this subsection, the amount of the premium shall be collected in the same manner as the premium for enrollment under such part is collected under section 1840, except that any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed to be a reference to the Medicare Early Access Trust Fund established under section 1859D.

''(c) APPLICATION OF CERTAIN PROVISIONS.—The provisions of section 1840 (other than subsection (h)) shall apply to premiums collected under this section in the same manner as they apply to premiums collected under part B, except that any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed a reference to the Trust Fund established under section 1859D.

''SEC. 1859D. MEDICARE EARLY ACCESS TRUST FUND.

''(a) ESTABLISHMENT OF TRUST FUND.—

''(1) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Medicare Early Access Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and such amounts as may be deposited in, or appropriated to, such fund as provided in this title.

''(2) PREMIUMS.—Premiums collected under section 1859B shall be transferred to the Trust Fund.

''(b) INCORPORATION OF PROVISIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), subsections (b) through (i) of section 1841 shall apply with respect to the Trust Fund and this title in the same manner as they apply with respect to the Federal Supplementary Medical Insurance Trust Fund and part B, respectively.

''(2) MISCELLANEOUS REFERENCES.—In applying provisions of section 1841 under paragraph (1)—

''(A) any reference in such section to 'this part' is construed to refer to this part D;

''(B) any reference in section 1841(h) to section 1840(d) and in section 1841(i) to sections 1840(b)(1) and 1842(g) are deemed references to comparable authority exercised under this part; and

''(C) payments may be made under section 1841(g) to the trust funds under sections 1817 and 1841 as reimbursement to such funds for payments they made for benefits provided under this part.

''SEC. 1859E. OVERSIGHT AND ACCOUNTABILITY.

''(a) THROUGH ANNUAL REPORTS OF TRUSTEES.—The Board of Trustees of the Medicare Early Access Trust Fund under section 1859D(b)(1) shall report on an annual basis to Congress concerning the status of the Trust Fund and the need for adjustments in the program under this part to maintain financial solvency of the program under this part.

''(b) PERIODIC GAO REPORTS.—The Comptroller General of the United States shall periodically submit to Congress reports on the adequacy of the financing of coverage provided under this part. The Comptroller General shall include in such report such recommendations for adjustments in such financing and coverage as the Comptroller General deems appropriate in order to maintain financial solvency of the program under this part.

''SEC. 1859F. ADMINISTRATION AND MISCELLANEOUS.

''(a) TREATMENT FOR PURPOSES OF THIS TITLE.—Except as otherwise provided in this part—

''(1) an individual enrolled under this part shall be treated for purposes of this title as though the individual was entitled to benefits under part A and enrolled under part B; and

''(2) benefits described in section 1859 shall be payable under this title to such an individual in the same manner as if such individual was so entitled and enrolled.

''(b) NOT TREATED AS MEDICARE PROGRAM FOR PURPOSES OF MEDICAID PROGRAM.—For purposes of applying title XIX (including the provision of medicare cost-sharing assistance under such title), an individual who is enrolled under this part shall not be treated as being entitled to benefits under this title.

''(c) NOT TREATED AS MEDICARE PROGRAM FOR PURPOSES OF COBRA CONTINUATION PROVISIONS.—In applying a COBRA continuation provision (as defined in section 2791(d)(4) of the Public Health Service Act), any reference to an entitlement to benefits under this title shall not be construed to include entitlement to benefits under this title pursuant to the operation of this part.''.

(b) CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT PROVISIONS.—

(1) Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking ''or the Federal Supplementary Medical Insurance Trust Fund'' and inserting ''the Federal Supplementary Medical Insurance Trust Fund, and the Medicare Early Access Trust Fund''.

(2) Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended by striking ''and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII'' and inserting '', the Federal Supplementary Medical Insurance Trust Fund, and the Medicare Early Access Trust Fund established by title XVIII''.

(3) Section 1820(i) of such Act (42 U.S.C. 1395i–4(i)) is amended by striking ''part D'' and inserting ''part E''.

(4) Part C of title XVIII of such Act is amended—

(A) in section 1851(a)(2)(B) (42 U.S.C. 1395w–21(a)(2)(B)), by striking ''1859(b)(3)'' and inserting ''1858(b)(3)'';

(B) in section 1851(a)(2)(C) (42 U.S.C. 1395w–21(a)(2)(C)), by striking ''1859(b)(2)'' and inserting ''1858(b)(2)'';

(C) in section 1852(a)(1) (42 U.S.C. 1395w–22(a)(1)), by striking ''1859(b)(3)'' and inserting ''1858(b)(3)'';

(D) in section 1852(a)(3)(B)(ii) (42 U.S.C. 1395w–22(a)(3)(B)(ii)), by striking ''1859(b)(2)(B)'' and inserting ''1858(b)(2)(B)'';

(E) in section 1853(a)(1)(A) (42 U.S.C. 1395w–23(a)(1)(A)), by striking ''1859(e)(4)'' and inserting ''1858(e)(4)''; and

(F) in section 1853(a)(3)(D) (42 U.S.C. 1395w–23(a)(3)(D)), by striking ''1859(e)(4)'' and inserting ''1858(e)(4)''.

(5) Section 1853(c) of such Act (42 U.S.C. 1395w–23(c)) is amended—

(A) in paragraph (1), by striking ''and (7)'' and inserting '', (7), and (8)'', and

(B) by adding at the end the following:

''(8) ADJUSTMENT FOR EARLY ACCESS.—In applying this subsection with respect to individuals entitled to benefits under part D, the Secretary shall provide for an appropriate adjustment in the Medicare+Choice capitation rate as may be appropriate to reflect differences between the population served under such part and the population under parts A and B.''.

(c) OTHER CONFORMING AMENDMENTS.—

(1) Section 138(b)(4) of the Internal Revenue Code of 1986 is amended by striking ''1859(b)(3)'' and inserting ''1858(b)(3)''.

(2)(A) Section 602(2)(D)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended by inserting ''(not including an individual who is so entitled pursuant to enrollment under section 1859A)'' after ''Social Security Act''.

(B) Section 2202(2)(D)(ii) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(D)(ii)) is amended by inserting ''(not including an individual who is so entitled pursuant to enrollment under section 1859A)'' after ''Social Security Act''.

(C) Section 4980B(f)(2)(B)(i)(V) of the Internal Revenue Code of 1986 is amended by inserting ''(not including an individual who is so entitled pursuant to enrollment under section 1859A)'' after ''Social Security Act''.

SEC. 5. ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE.

(a) ELIGIBILITY.—Section 1859 of the Social Security Act, as inserted by section 4(a)(2), is amended by adding at the end the following new subsection:

''(c) DISPLACED WORKERS AND SPOUSES.—

''(1) DISPLACED WORKERS.—Subject to paragraph (3), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

''(A) AGE.—As of the last day of the month, the individual has attained 55 years of age, but has not attained 62 years of age.

''(B) MEDICARE ELIGIBILITY (BUT FOR AGE).—The individual would be eligible for benefits under part A or B for the month if the individual were 65 years of age.

''(C) LOSS OF EMPLOYMENT-BASED COVERAGE.—

''(i) ELIGIBLE FOR UNEMPLOYMENT COMPENSATION.—The individual meets the requirements relating to period of covered employment and conditions of separation from employment to be eligible for unemployment compensation (as defined in section 85(b) of the Internal Revenue Code of 1986), based on a separation from employment occurring on or after January 1, 2001. The previous sentence shall not be construed as requiring the individual to be receiving such unemployment compensation.

''(ii) LOSS OF EMPLOYMENT-BASED COVERAGE.—Immediately before the time of such separation of employment, the individual was covered under a group health plan on the basis of such employment, and, because of such loss, is no longer eligible for coverage under such plan (including such eligibility based on the application of a Federal or State COBRA continuation provision) as of the last day of the month involved.

''(iii) PREVIOUS CREDITABLE COVERAGE FOR AT LEAST 1 YEAR.—As of the date on which the individual loses coverage described in clause (ii), the aggregate of the periods of creditable coverage (as determined under section 2701(c) of the Public Health Service Act) is 12 months or longer.

''(D) EXHAUSTION OF AVAILABLE COBRA CONTINUATION BENEFITS.—

''(i) IN GENERAL.—In the case of an individual described in clause (ii) for a month described in clause (iii)—

''(I) the individual (or spouse) elected coverage described in clause (ii); and

''(II) the individual (or spouse) has continued such coverage for all months described in clause (iii) in which the individual (or spouse) is eligible for such coverage.

''(ii) INDIVIDUALS TO WHOM COBRA CONTINUATION COVERAGE MADE AVAILABLE.—An individual described in this clause is an individual—

''(I) who was offered coverage under a Federal or State COBRA continuation provision at the time of loss of coverage eligibility described in subparagraph (C)(ii); or

''(II) whose spouse was offered such coverage in a manner that permitted coverage of the individual at such time.

''(iii) MONTHS OF POSSIBLE COBRA CONTINUATION COVERAGE.—A month described in this clause is a month for which an individual described in clause (ii) could have had coverage described in such clause as of the last day of the month if the individual (or the spouse of the individual, as the case may be) had elected such coverage on a timely basis.

''(E) NOT ELIGIBLE FOR COVERAGE UNDER FEDERAL HEALTH INSURANCE PROGRAM OR GROUP HEALTH PLANS.—The individual is not eligible for benefits or coverage under a Federal health insurance program or under a group health plan (whether on the basis of the individual's employment or employment of the individual's spouse) as of the last day of the month involved.

''(2) SPOUSE OF DISPLACED WORKER.—Subject to paragraph (3), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

''(A) AGE.—As of the last day of the month, the individual has not attained 62 years of age.

''(B) MARRIED TO DISPLACED WORKER.—The individual is the spouse of an individual at the time the individual enrolls under this part under paragraph (1) and loses coverage described in paragraph (1)(C)(ii) because the individual's spouse lost such coverage.

''(C) MEDICARE ELIGIBILITY (BUT FOR AGE); EXHAUSTION OF ANY COBRA CONTINUATION COVERAGE; AND NOT ELIGIBLE FOR COVERAGE UNDER FEDERAL HEALTH INSURANCE PROGRAM OR GROUP HEALTH PLAN.—The individual meets the requirements of subparagraphs (B), (D), and (E) of paragraph (1).

''(3) CHANGE IN HEALTH PLAN ELIGIBILITY AFFECTS CONTINUED ELIGIBILITY.—For provision that terminates enrollment under this section in the case of an individual who becomes eligible for coverage under a group health plan or under a Federal health insurance program, see section 1859A(d)(1)(C).

''(4) REENROLLMENT PERMITTED.—Nothing in this subsection shall be construed as preventing an individual who, after enrolling under this subsection, terminates such enrollment from subsequently reenrolling under this subsection if the individual is eligible to enroll under this subsection at that time.''.

(b) ENROLLMENT.—Section 1859A of such Act, as so inserted, is amended—

(1) in subsection (a), by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ''; and'', and by adding at the end the following new paragraph:

''(3) individuals whose coverage under this part would terminate because of subsection

(d)(1)(B)(ii) are provided notice and an opportunity to continue enrollment in accordance with section 1859E(c)(1).'';

(2) in subsection (b), by inserting after Notwithstanding any other provision of law, (1) the following:

''(2) DISPLACED WORKERS AND SPOUSES.—In the case of individuals eligible to enroll under this part under section 1859(c), the following rules apply:

''(A) INITIAL ENROLLMENT PERIOD.—If the individual is first eligible to enroll under such section for July 2005, the enrollment period shall begin on May 1, 2002, and shall end on August 31, 2002. Any such enrollment before July 1, 2002, is conditioned upon compliance with the conditions of eligibility for July 2002.

''(B) SUBSEQUENT PERIODS.—If the individual is eligible to enroll under such section for a month after July 2002, the enrollment period based on such eligibility shall begin on the first day of the second month before the month in which the individual first is eligible to so enroll (or reenroll) and shall end 4 months later.'';

(3) in subsection (d)(1), by amending subparagraph (B) to read as follows:

''(B) TERMINATION BASED ON AGE.—

''(i) AT AGE 65.—Subject to clause (ii), the individual attains 65 years of age.

''(ii) AT AGE 62 FOR DISPLACED WORKERS AND SPOUSES.—In the case of an individual enrolled under this part pursuant to section 1859(c), subject to subsection (a)(1), the individual attains 62 years of age.'';

(4) in subsection (d)(1), by adding at the end the following new subparagraph:

''(C) OBTAINING ACCESS TO EMPLOYMENT-BASED COVERAGE OR FEDERAL HEALTH INSURANCE PROGRAM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—In the case of an individual who has not attained 62 years of age, the individual is covered (or eligible for coverage) as a participant or beneficiary under a group health plan or under a Federal health insurance program.'';

(5) in subsection (d)(2), by amending subparagraph (C) to read as follows:

''(C) AGE OR MEDICARE ELIGIBILITY.—

''(i) IN GENERAL.—The termination of a coverage period under paragraph (1)(A)(iii) or (1)(B)(i) shall take effect as of the first day of the month in which the individual attains 65 years of age or becomes entitled to benefits under part A or enrolled for benefits under part B.

''(ii) DISPLACED WORKERS.—The termination of a coverage period under paragraph (1)(B)(ii) shall take effect as of the first day of the month in which the individual attains 62 years of age, unless the individual has enrolled under this part pursuant to section 1859(b) and section 1859E(c)(1).''; and

(6) in subsection (d)(2), by adding at the end the following new subparagraph:

''(D) ACCESS TO COVERAGE.—The termination of a coverage period under paragraph (1)(C) shall take effect on the date on which the individual is eligible to begin a period of creditable coverage (as defined in section 2701(c) of the Public Health Service Act) under a group health plan or under a Federal health insurance program.''.

(c) PREMIUMS.—Section 1859B of such Act, as so inserted, is amended—

(1) in subsection (a)(1), by adding at the end the following:

''(B) BASE MONTHLY PREMIUM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—A base monthly premium for individuals under 62 years of age, equal to 1/12 of the base annual premium rate computed under subsection (d)(3) for each premium area and age cohort.''; and

(2) by adding at the end the following new subsection:

''(d) BASE MONTHLY PREMIUM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—

''(1) NATIONAL, PER CAPITA AVERAGE FOR AGE GROUPS.—

''(A) ESTIMATE OF AMOUNT.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 1859(c)(1)(A) within each of the age cohorts established under subparagraph (B) as if all such individuals within such cohort were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

''(B) AGE COHORTS.—For purposes of subparagraph (A), the Secretary shall establish separate age cohorts in 5-year age increments for individuals who have not attained 60 years of age and a separate cohort for individuals who have attained 60 years of age.

''(2) GEOGRAPHIC ADJUSTMENT.—The Secretary shall adjust the amount determined under paragraph (1)(A) for each premium area (specified under subsection (a)(3)) in the same manner and to the same extent as the Secretary provides for adjustments under subsection (b)(2).

''(3) BASE ANNUAL PREMIUM.—The base annual premium under this subsection for months in a year for individuals in an age cohort under paragraph (1)(B) in a premium area is equal to 165 percent of the average, annual per capita amount estimated under paragraph (1) for the age cohort and year, adjusted for such area under paragraph (2).

''(4) PRO-RATION OF PREMIUMS TO REFLECT COVERAGE DURING A PART OF A MONTH.—If the Secretary provides for coverage of portions of a month under section 1859A(c)(2), the Secretary shall pro-rate the premiums attributable to such coverage under this section to reflect the portion of the month so covered.''.

(d) ADMINISTRATIVE PROVISIONS.—Section 1859F of such Act, as so inserted, is amended by adding at the end the following:

''(d) ADDITIONAL ADMINISTRATIVE PROVISIONS.—

''(1) PROCESS FOR CONTINUED ENROLLMENT OF DISPLACED WORKERS WHO ATTAIN 62 YEARS OF AGE.—The Secretary shall provide a process for the continuation of enrollment of individuals whose enrollment under section 1859(c) would be terminated upon attaining 62 years of age. Under such process such individuals shall be provided appropriate and timely notice before the date of such termination and of the requirement to enroll under this part pursuant to section 1859(b) in order to continue entitlement to benefits under this title after attaining 62 years of age.

''(2) ARRANGEMENTS WITH STATES FOR DETERMINATIONS RELATING TO UNEMPLOYMENT COMPENSATION ELIGIBILITY.—The Secretary may provide for appropriate arrangements with States for the determination of whether individuals in the State meet or would meet the requirements of section 1859(c)(1)(C)(i).''.

(e) CONFORMING AMENDMENT TO HEADING TO PART.—The heading of part D of title XVIII of the Social Security Act, as so inserted, is amended by striking ''62'' and inserting ''55''.

SEC. 6. PROVISIONS TO MAKE FEHBP COVERAGE AVAILABLE FOR THE SELF-EMPLOYED.

Chapter 89 of title 5, United States Code, is amended by adding at the end the following:

''§ 8915. Expanded access to coverage for the self-employed

''(a) The Office of Personnel Management (referred to in this section as the 'Office') shall administer a health insurance program for eligible individuals who are non-Federal employees in accordance with this section.

''(b) The term 'eligible individual' means a self-employed individual as defined in section 401(c)(1) of the Internal Revenue Code of 1986.

''(c) The Office shall prescribe regulations to apply the provisions of this chapter to the greatest extent practicable to eligible individuals covered under this section.

''(c) In no event shall the enactment of this section result in—

''(1) any increase in the level of individual or Government contributions required under this chapter, including copayments or deductibles;

''(2) any decrease in the types of benefits offered under this chapter; or

''(3) any other change that would adversely affect the coverage afforded under this chapter to employees and annuitants and members of family under this chapter.

''(d) The Office shall develop methods to facilitate enrollment under this section, including the use of the Internet.

''(e) The Office may enter into contracts for the performance of appropriate administrative functions under this chapter.

''(f) Each contract entered into under section 8902 shall require a carrier to offer to eligible individuals under this chapter, throughout each term for which the contract remains effective, the same benefits (subject to the same maximums, limitations, exclusions, and other similar terms or conditions) as would be offered under such contract or applicable health benefits plan to employees, annuitants, and members of family.

''(g)(1) The Office may waive the requirements of this section, if the Office determines, based on a petition submitted by a carrier that—

''(A) the carrier is unable to offer the applicable health benefits plan because of a limitation in the capacity of the plan to deliver services or assure financial solvency;

''(B) the applicable health benefits plan is not sponsored by a carrier licensed under applicable State law; or

''(C) bona fide enrollment restrictions make the application of this chapter inappropriate, including restrictions common to plans which are limited to individuals having a past or current employment relationship with a particular agency or other authority of the Government.

''(2) The Office may require a petition under this subsection to include—

''(A) a description of the efforts the carrier proposes to take in order to offer the applicable health benefits plan under this chapter; and

''(B) the proposed date for offering such a health benefits plan.

''(3) A waiver under this section may be for any period determined by the Office. The Office may grant subsequent waivers under this section.

''(h) The Office shall provide for the implementation of procedures to provide for an annual open enrollment period during which eligible individuals may enroll with a plan or contract for coverage under this section.

''(i) Except as the Office may by regulation prescribe, any reference to this chapter (or any requirement of this chapter), made in any provision of law, shall not be considered to include this section (or any requirement of this section).

''(j) This section shall take effect on the date of enactment of this section and shall apply to contracts that take effect with respect to calendar year 2002 and each calendar year thereafter.''.

SEC. 7. MEDIKIDS HEALTH INSURANCE.

(a) BENEFITS FOR ALL CHILDREN BORN AFTER 2002.—

(1) IN GENERAL.—The Social Security Act is amended by adding at the end the following:

''TITLE XXII—MEDIKIDS PROGRAM

''SEC. 2201. ELIGIBILITY.

''(a) ELIGIBILITY OF INDIVIDUALS BORN AFTER DECEMBER 31, 2002; ALL CHILDREN

UNDER 23 YEARS OF AGE IN SIXTH YEAR.—An individual who meets the following requirements with respect to a month is eligible to enroll under this title with respect to such month:

''(1) AGE.—

''(A) FIRST YEAR.—During the first year in which this title is effective, the individual has not attained 6 years of age.

''(B) SECOND YEAR.—During the second year in which this title is effective, the individual has not attained 11 years of age.

''(C) THIRD YEAR.—During the third year in which this title is effective, the individual has not attained 16 years of age.

''(D) FOURTH YEAR.—During the fourth year in which this title is effective, the individual has not attained 21 years of age.

''(E) FIFTH AND SUBSEQUENT YEARS.—During the fifth year in which this title is effective and each subsequent year, the individual has not attained 23 years of age.

''(2) CITIZENSHIP.—The individual is a citizen or national of the United States or is permanently residing in the United States under color of law.

''(b) ENROLLMENT PROCESS.—An individual may enroll in the program established under this title only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed by the Secretary consistent with the provisions of this section. Such regulations shall provide a process under which—

''(1) individuals who are born in the United States after December 31, 2002, are deemed to be enrolled at the time of birth and a parent or guardian of such an individual is permitted to pre-enroll in the month prior to the expected month of birth;

''(2) individuals who are born outside the United States after such date and who become eligible to enroll by virtue of immigration into (or an adjustment of immigration status in) the United States are deemed enrolled at the time of entry or adjustment of status;

''(3) eligible individuals may otherwise be enrolled at such other times and manner as the Secretary shall specify, including the use of outstationed eligibility sites as described in section 1902(a)(55)(A) and the use of presumptive eligibility provisions like those described in section 1920A; and

''(4) at the time of automatic enrollment of a child, the Secretary provides for issuance to a parent or custodian of the individual a card evidencing coverage under this title and for a description of such coverage.

The provisions of section 1837(h) apply with respect to enrollment under this title in the same manner as they apply to enrollment under part B of title XVIII.

''(c) DATE COVERAGE BEGINS.—

''(1) IN GENERAL.—The period during which an individual is entitled to benefits under this title shall begin as follows, but in no case earlier than January 1, 2003:

''(A) In the case of an individual who is enrolled under paragraph (1) or (2) of subsection (b), the date of birth or date of obtaining appropriate citizenship or immigration status, as the case may be.

''(B) In the case of an another individual who enrolls (including pre-enrolls) before the month in which the individual satisfies eligibility for enrollment under subsection (a), the first day of such month of eligibility.

''(C) In the case of an another individual who enrolls during or after the month in which the individual first satisfies eligibility for enrollment under such subsection, the first day of the following month.

''(2) AUTHORITY TO PROVIDE FOR PARTIAL MONTHS OF COVERAGE.—Under regulations, the Secretary may, in the Secretary's discretion, provide for coverage periods that include portions of a month in order to avoid lapses of coverage.

''(3) LIMITATION ON PAYMENTS.—No payments may be made under this title with respect to the expenses of an individual enrolled under this title unless such expenses were incurred by such individual during a period which, with respect to the individual, is a coverage period under this section.

''(d) EXPIRATION OF ELIGIBILITY.—An individual's coverage period under this part shall continue until the individual's enrollment has been terminated because the individual no longer meets the requirements of subsection (a) (whether because of age or change in immigration status).

''(e) ENTITLEMENT TO MEDIKIDS BENEFITS FOR ENROLLED INDIVIDUALS.—An individual enrolled under this section is entitled to the benefits described in section 2202.

''(f) LOW-INCOME INFORMATION.—At the time of enrollment of a child under this title, the Secretary shall make an inquiry as to whether or not the family income of the family that includes the child is less than 150 percent of the poverty line for a family of the size involved. If the family income is below such level, the Secretary shall encode in the identification card issued in connection with eligibility under this title a code indicating such fact. The Secretary also shall provide for a toll-free telephone line at which providers can verify whether or not such a child is in a family the income of which is below such level.

''(g) CONSTRUCTION.—Nothing in this title shall be construed as requiring (or preventing) an individual who is enrolled under this section from seeking medical assistance under a State medicaid plan under title XIX or child health assistance under a State child health plan under title XXI.

''SEC. 2202. BENEFITS.

''(a) SECRETARIAL SPECIFICATION OF BENEFIT PACKAGE.—

''(1) IN GENERAL.—The Secretary shall specify the benefits to be made available under this title consistent with the provisions of this section and in a manner designed to meet the health needs of enrollees.

''(2) UPDATING.—The Secretary shall update the specification of benefits over time to ensure the inclusion of age-appropriate benefits to reflect the enrollee population.

''(3) ANNUAL UPDATING.—The Secretary shall establish procedures for the annual review and updating of such benefits to account for changes in medical practice, new information from medical research, and other relevant developments in health science.

''(4) INPUT.—The Secretary shall seek the input of the pediatric community in specifying and updating such benefits.

''(5) LIMITATION ON UPDATING.—In no case shall updating of benefits under this subsection result in a failure to provide benefits required under subsection (b).

''(b) INCLUSION OF CERTAIN BENEFITS.—

''(1) MEDICARE CORE BENEFITS.—Such benefits shall include (to the extent consistent with other provisions of this section) at least the same benefits (including coverage, access, availability, duration, and beneficiary rights) that are available under parts A and B of title XVIII.

''(2) ALL REQUIRED MEDICAID BENEFITS.—Such benefits shall also include all items and services for which medical assistance is required to be provided under section 1902(a)(10)(A) to individuals described in such section, including early and periodic screening, diagnostic services, and treatment services.

''(3) INCLUSION OF PRESCRIPTION DRUGS.—Such benefits also shall include (as specified by the Secretary) prescription drugs and biologicals.

''(4) COST-SHARING.—

''(A) IN GENERAL.—Subject to subparagraph (B), such benefits also shall include the cost-sharing (in the form of deductibles, coinsurance, and copayments) applicable under title XVIII with respect to comparable items and services, except that no cost-sharing shall be imposed with respect to early and periodic screening and diagnostic services included under paragraph (2).

''(B) NO COST-SHARING FOR LOWEST INCOME CHILDREN.—Such benefits shall not include any cost-sharing for children in families the income of which (as determined for purposes of section 1905(p)) does not exceed 150 percent of the official income poverty line (referred to in such section) applicable to a family of the size involved.

''(C) REFUNDABLE CREDIT FOR COST-SHARING FOR OTHER LOW-INCOME CHILDREN.—For a refundable credit for cost-sharing in the case of children in certain families, see section 35 of the Internal Revenue Code of 1986.

''(c) PAYMENT SCHEDULE.—The Secretary, with the assistance of the Medicare Payment Advisory Commission, shall develop and implement a payment schedule for benefits covered under this title. To the extent feasible, such payment schedule shall be consistent with comparable payment schedules and reimbursement methodologies applied under parts A and B of title XVIII.

''(d) INPUT.—The Secretary shall specify such benefits and payment schedules only after obtaining input from appropriate child health providers and experts.

''(e) ENROLLMENT IN HEALTH PLANS.—The Secretary shall provide for the offering of benefits under this title through enrollment in a health benefit plan that meets the same (or similar) requirements as the requirements that apply to Medicare+Choice plans under part C of title XVIII. In the case of individuals enrolled under this title in such a plan, the Medicare+Choice capitation rate described in section 1853(c) shall be adjusted in an appropriate manner to reflect differences between the population served under this title and the population under title XVIII.

''SEC. 2203. PREMIUMS.

''(a) AMOUNT OF MONTHLY PREMIUMS.—

''(1) IN GENERAL.—The Secretary shall, during September of each year (beginning with 2002), establish a monthly MediKids premium. Subject to paragraph (2), the monthly MediKids premium for a year is equal to 1/12 of the annual premium rate computed under subsection (b).

''(2) ELIMINATION OF MONTHLY PREMIUM FOR DEMONSTRATION OF EQUIVALENT COVERAGE (INCLUDING COVERAGE UNDER LOW-INCOME PROGRAMS).—The amount of the monthly premium imposed under this section for an individual for a month shall be zero in the case of an individual who demonstrates to the satisfaction of the Secretary that the individual has basic health insurance coverage for that month. For purposes of the previous sentence enrollment in a medicaid plan under title XIX, a State child health insurance plan under title XXI, or under the medicare program under title XVIII is deemed to constitute basic health insurance coverage described in such sentence.

''(b) ANNUAL PREMIUM.—

''(1) NATIONAL, PER CAPITA AVERAGE.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 2201(a)(1) as if all such individuals were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

''(2) ANNUAL PREMIUM.—Subject to subsection (d), the annual premium under this

subsection for months in a year is equal to 25 percent of the average, annual per capita amount estimated under paragraph (1) for the year.

''(c) PAYMENT OF MONTHLY PREMIUM.—

''(1) PERIOD OF PAYMENT.—In the case of an individual who participates in the program established by this title, subject to subsection (d), the monthly premium shall be payable for the period commencing with the first month of the individual's coverage period and ending with the month in which the individual's coverage under this title terminates.

''(2) COLLECTION THROUGH TAX RETURN.—For provisions providing for the payment of monthly premiums under this subsection, see section 59B of the Internal Revenue Code of 1986.

''(3) PROTECTIONS AGAINST FRAUD AND ABUSE.—The Secretary shall develop, in coordination with States and other health insurance issuers, administrative systems to ensure that claims which are submitted to more than one payor are coordinated and duplicate payments are not made.

''(d) REDUCTION IN PREMIUM FOR CERTAIN LOW-INCOME FAMILIES.—For provisions reducing the premium under this section for certain low-income families, see section 59B(c) of the Internal Revenue Code of 1986.

''SEC. 2204. MEDIKIDS TRUST FUND.

''(a) ESTABLISHMENT OF TRUST FUND.—

''(1) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'MediKids Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and such amounts as may be deposited in, or appropriated to, such fund as provided in this title.

''(2) PREMIUMS.—Premiums collected under section 2203 shall be transferred to the Trust Fund.

''(b) INCORPORATION OF PROVISIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), subsections (b) through (i) of section 1841 shall apply with respect to the Trust Fund and this title in the same manner as they apply with respect to the Federal Supplementary Medical Insurance Trust Fund and part B, respectively.

''(2) MISCELLANEOUS REFERENCES.—In applying provisions of section 1841 under paragraph (1)—

''(A) any reference in such section to 'this part' is construed to refer to title XXII;

''(B) any reference in section 1841(h) to section 1840(d) and in section 1841(i) to sections 1840(b)(1) and 1842(g) are deemed references to comparable authority exercised under this title;

''(C) payments may be made under section 1841(g) to the Trust Funds under sections 1817 and 1841 as reimbursement to such funds for payments they made for benefits provided under this title; and

''(D) the Board of Trustees of the MediKids Trust Fund shall be the same as the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund.

''SEC. 2205. OVERSIGHT AND ACCOUNTABILITY.

''(a) THROUGH ANNUAL REPORTS OF TRUSTEES.—The Board of Trustees of the MediKids Trust Fund under section 2204(b)(1) shall report on an annual basis to Congress concerning the status of the Trust Fund and the need for adjustments in the program under this title to maintain financial solvency of the program under this title.

''(b) PERIODIC GAO REPORTS.—The Comptroller General of the United States shall periodically submit to Congress reports on the adequacy of the financing of coverage provided under this title. The Comptroller General shall include in such report such recommendations for adjustments in such financing and coverage as the Comptroller General deems appropriate in order to maintain financial solvency of the program under this title.

''SEC. 2206. INCLUSION OF CARE COORDINATION SERVICES.

''(a) IN GENERAL.—

''(1) PROGRAM AUTHORITY.—The Secretary, beginning in 2003, may implement a care coordination services program in accordance with the provisions of this section under which, in appropriate circumstances, eligible individuals may elect to have health care services covered under this title managed and coordinated by a designated care coordinator.

''(2) ADMINISTRATION BY CONTRACT.—The Secretary may administer the program under this section through a contract with an appropriate program administrator.

''(3) COVERAGE.—Care coordination services furnished in accordance with this section shall be treated under this title as if they were included in the definition of medical and other health services under section 1861(s) and benefits shall be available under this title with respect to such services without the application of any deductible or coinsurance.

''(b) ELIGIBILITY CRITERIA; IDENTIFICATION AND NOTIFICATION OF ELIGIBLE INDIVIDUALS.—

''(1) INDIVIDUAL ELIGIBILITY CRITERIA.—The Secretary shall specify criteria to be used in making a determination as to whether an individual may appropriately be enrolled in the care coordination services program under this section, which shall include at least a finding by the Secretary that for cohorts of individuals with characteristics identified by the Secretary, professional management and coordination of care can reasonably be expected to improve processes or outcomes of health care and to reduce aggregate costs to the programs under this title.

''(2) PROCEDURES TO FACILITATE ENROLLMENT.—The Secretary shall develop and implement procedures designed to facilitate enrollment of eligible individuals in the program under this section.

''(c) ENROLLMENT OF INDIVIDUALS.—

''(1) SECRETARY'S DETERMINATION OF ELIGIBILITY.—The Secretary shall determine the eligibility for services under this section of individuals who are enrolled in the program under this section and who make application for such services in such form and manner as the Secretary may prescribe.

''(2) ENROLLMENT PERIOD.—

''(A) EFFECTIVE DATE AND DURATION.—Enrollment of an individual in the program under this section shall be effective as of the first day of the month following the month in which the Secretary approves the individual's application under paragraph (1), shall remain in effect for one month (or such longer period as the Secretary may specify), and shall be automatically renewed for additional periods, unless terminated in accordance with such procedures as the Secretary shall establish by regulation. Such procedures shall permit an individual to disenroll for cause at any time and without cause at re-enrollment intervals.

''(B) LIMITATION ON REENROLLMENT.—The Secretary may establish limits on an individual's eligibility to reenroll in the program under this section if the individual has disenrolled from the program more than once during a specified time period.

''(d) PROGRAM.—The care coordination services program under this section shall include the following elements:

''(1) BASIC CARE COORDINATION SERVICES.—

''(A) IN GENERAL.—Subject to the cost-effectiveness criteria specified in subsection (b)(1), except as otherwise provided in this section, enrolled individuals shall receive services described in section 1905(t)(1) and may receive additional items and services as described in subparagraph (B).

''(B) ADDITIONAL BENEFITS.—The Secretary may specify additional benefits for which payment would not otherwise be made under this title that may be available to individuals enrolled in the program under this section (subject to an assessment by the care coordinator of an individual's circumstance and need for such benefits) in order to encourage enrollment in, or to improve the effectiveness of, such program.

''(2) CARE COORDINATION REQUIREMENT.—Notwithstanding any other provision of this title, the Secretary may provide that an individual enrolled in the program under this section may be entitled to payment under this title for any specified health care items or services only if the items or services have been furnished by the care coordinator, or coordinated through the care coordination services program. Under such provision, the Secretary shall prescribe exceptions for emergency medical services as described in section 1852(d)(3), and other exceptions determined by the Secretary for the delivery of timely and needed care.

''(e) CARE COORDINATORS.—

''(1) CONDITIONS OF PARTICIPATION.—In order to be qualified to furnish care coordination services under this section, an individual or entity shall—

''(A) be a health care professional or entity (which may include physicians, physician group practices, or other health care professionals or entities the Secretary may find appropriate) meeting such conditions as the Secretary may specify;

''(B) have entered into a care coordination agreement; and

''(C) meet such criteria as the Secretary may establish (which may include experience in the provision of care coordination or primary care physician's services).

''(2) AGREEMENT TERM; PAYMENT.—

''(A) DURATION AND RENEWAL.—A care coordination agreement under this subsection shall be for one year and may be renewed if the Secretary is satisfied that the care coordinator continues to meet the conditions of participation specified in paragraph (1).

''(B) PAYMENT FOR SERVICES.—The Secretary may negotiate or otherwise establish payment terms and rates for services described in subsection (d)(1).

''(C) LIABILITY.—Case coordinators shall be subject to liability for actual health damages which may be suffered by recipients as a result of the care coordinator's decisions, failure or delay in making decisions, or other actions as a care coordinator.

''(D) TERMS.—In addition to such other terms as the Secretary may require, an agreement under this section shall include the terms specified in subparagraphs (A) through (C) of section 1905(t)(3).

''SEC. 2207. ADMINISTRATION AND MISCELLANEOUS.

''(a) IN GENERAL.—Except as otherwise provided in this title—

''(1) the Secretary shall enter into appropriate contracts with providers of services, other health care providers, carriers, and fiscal intermediaries, taking into account the types of contracts used under title XVIII with respect to such entities, to administer the program under this title;

''(2) individuals enrolled under this title shall be treated for purposes of title XVIII as though the individual were entitled to benefits under part A and enrolled under part B of such title;

''(3) benefits described in section 2202 that are payable under this title to such individuals shall be paid in a manner specified by

the Secretary (taking into account, and based to the greatest extent practicable upon, the manner in which they are provided under title XVIII);

''(4) provider participation agreements under title XVIII shall apply to enrollees and benefits under this title in the same manner as they apply to enrollees and benefits under title XVIII; and

''(5) individuals entitled to benefits under this title may elect to receive such benefits under health plans in a manner, specified by the Secretary, similar to the manner provided under part C of title XVIII.

''(b) COORDINATION WITH MEDICAID AND SCHIP.—Notwithstanding any other provision of law, individuals entitled to benefits for items and services under this title who also qualify for benefits under title XIX or XXI or any other Federally funded program may continue to qualify and obtain benefits under such other title or program, and in such case such an individual shall elect either—

''(1) such other title or program to be primary payor to benefits under this title, in which case no benefits shall be payable under this title and the monthly premium under section 2203 shall be zero; or

''(2) benefits under this title shall be primary payor to benefits provided under such program or title, in which case the Secretary shall enter into agreements with States as may be appropriate to provide that, in the case of such individuals, the benefits under titles XIX and XXI or such other program (including reduction of cost-sharing) are provided on a 'wrap-around' basis to the benefits under this title.''.

(2) CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT PROVISIONS.—

(A) Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking ''or the Federal Supplementary Medical Insurance Trust Fund'' and inserting ''the Federal Supplementary Medical Insurance Trust Fund, and the MediKids Trust Fund''.

(B) Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended by striking and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII'' and inserting '', the Federal Supplementary Medical Insurance Trust Fund, and the MediKids Trust Fund established by title XVIII''.

(C) Section 1853(c) of such Act (42 U.S.C. 1395w–23(c)) is amended—

(i) in paragraph (1), by striking ''or (7)'' and inserting '', (7), or (8)'', and

(ii) by adding at the end the following:

''(8) ADJUSTMENT FOR MEDIKIDS.—In applying this subsection with respect to individuals entitled to benefits under title XXII, the Secretary shall provide for an appropriate adjustment in the Medicare+Choice capitation rate as may be appropriate to reflect differences between the population served under such title and the population under parts A and B.''.

(3) MAINTENANCE OF MEDICAID ELIGIBILITY AND BENEFITS FOR CHILDREN.—

(A) IN GENERAL.—In order for a State to continue to be eligible for payments under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a))—

(i) the State may not reduce standards of eligibility, or benefits, provided under its State medicaid plan under title XIX of the Social Security Act or under its State child health plan under title XXI of such Act for individuals under 23 years of age below such standards of eligibility, and benefits, in effect on the date of the enactment of this Act; and

(ii) the State shall demonstrate to the satisfaction of the Secretary of Health and Human Services that any savings in State expenditures under title XIX or XXI of the Social Security Act that results from children from enrolling under title XXII of such Act shall be used in a manner that improves services to beneficiaries under title XIX of such Act, such as through increases in provider payment rates, expansion of eligibility, improved nurse and nurse aide staffing and improved inspections of nursing facilities, and coverage of additional services.

(B) MEDIKIDS AS PRIMARY PAYOR.—In applying title XIX of the Social Security Act, the MediKids program under title XXII of such Act shall be treated as a primary payor in cases in which the election described in section 2207(b)(2) of such Act, as added by subsection (a), has been made.

(4) EXPANSION OF MEDPAC MEMBERSHIP TO 19.—

(A) IN GENERAL.—Section 1805(c) of the Social Security Act (42 U.S.C. 1395b–6(c)) is amended—

(i) in paragraph (1), by striking ''17'' and inserting ''19''; and

(ii) in paragraph (2)(B), by inserting ''experts in children's health,'' after ''other health professionals,''.

(B) INITIAL TERMS OF ADDITIONAL MEMBERS.—

(i) IN GENERAL.—For purposes of staggering the initial terms of members of the Medicare Payment Advisory Commission under section 1805(c)(3) of the Social Security Act (42 U.S.C. 1395b–6(c)(3)), the initial terms of the 2 additional members of the Commission provided for by the amendment under subsection (a)(1) are as follows:

(I) One member shall be appointed for 1 year.

(II) One member shall be appointed for 2 years.

(ii) COMMENCEMENT OF TERMS.—Such terms shall begin on January 1, 2002.

(b) MEDIKIDS PREMIUM.—

(1) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

''PART VIII—MEDIKIDS PREMIUM

''Sec. 59B. MediKids premium.

''SEC. 59B. MEDIKIDS PREMIUM.

''(a) IMPOSITION OF TAX.—In the case of an individual to whom this section applies, there is hereby imposed (in addition to any other tax imposed by this subtitle) a MediKids premium for the taxable year.

''(b) INDIVIDUALS SUBJECT TO PREMIUM.—

''(1) IN GENERAL.—This section shall apply to an individual if the taxpayer has a MediKid at any time during the taxable year.

''(2) MEDIKID.—For purposes of this section, the term 'MediKid' means, with respect to a taxpayer, any individual with respect to whom the taxpayer is required to pay a premium under section 2203(c) of the Social Security Act for any month of the taxable year.

''(c) AMOUNT OF PREMIUM.—For purposes of this section, the MediKids premium for a taxable year is the sum of the monthly premiums under section 2203 of the Social Security Act for months in the taxable year.

''(d) EXCEPTIONS BASED ON ADJUSTED GROSS INCOME.—

''(1) EXEMPTION FOR VERY LOW-INCOME TAXPAYERS.—

''(A) IN GENERAL.—No premium shall be imposed by this section on any taxpayer having an adjusted gross income not in excess of the exemption amount.

''(B) EXEMPTION AMOUNT.—For purposes of this paragraph, the exemption amount is—

''(i) $17,415 in the case of a taxpayer having 1 MediKid,

''(ii) $21,945 in the case of a taxpayer having 2 MediKids,

''(iii) $26,475 in the case of a taxpayer having 3 MediKids, and

''(iv) $31,005 in the case of a taxpayer having 4 or more MediKids.

''(C) PHASEOUT OF EXEMPTION.—In the case of a taxpayer having an adjusted gross income which exceeds the exemption amount but does not exceed twice the exemption amount, the premium shall be the amount which bears the same ratio to the premium which would (but for this subparagraph) apply to the taxpayer as such excess bears to the exemption amount.

''(D) INFLATION ADJUSTMENT OF EXEMPTION AMOUNTS.—In the case of any taxable year beginning in a calendar year after 2001, each dollar amount contained in subparagraph (C) shall be increased by an amount equal to the product of—

''(i) such dollar amount, and

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2000' for 'calendar year 1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

''(2) PREMIUM LIMITED TO 5 PERCENT OF ADJUSTED GROSS INCOME.—In no event shall any taxpayer be required to pay a premium under this section in excess of an amount equal to 5 percent of the taxpayer's adjusted gross income.

''(e) COORDINATION WITH OTHER PROVISIONS.—

''(1) NOT TREATED AS MEDICAL EXPENSE.—For purposes of this chapter, any premium paid under this section shall not be treated as expense for medical care.

''(2) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The premium paid under this section shall not be treated as a tax imposed by this chapter for purposes of determining—

''(A) the amount of any credit allowable under this chapter, or

''(B) the amount of the minimum tax imposed by section 55.

''(3) TREATMENT UNDER SUBTITLE F.—For purposes of subtitle F, the premium paid under this section shall be treated as if it were a tax imposed by section 1.''.

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (a) of section 6012 of such Code is amended by inserting after paragraph (9) the following new paragraph:

''(10) Every individual liable for a premium under section 59B.''.

(B) The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Part VIII. MediKids premium.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to months beginning after December 2002, in taxable years ending after such date.

(c) REFUNDABLE CREDIT FOR COST-SHARING EXPENSES UNDER MEDIKIDS PROGRAM.—

(1) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

''SEC. 35. COST-SHARING EXPENSES UNDER MEDIKIDS PROGRAM.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual who has a MediKid (as defined in section 59B) at any time during the taxable year, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to 50 percent of the amount paid by the taxpayer during the taxable year as cost-sharing under section 2202(b)(4) of the Social Security Act.

''(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The amount of the credit which would (but for this subsection) be allowed under this section for the taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to such amount of credit as the excess of the taxpayer's adjusted gross income for such taxable year over the exemption amount (as defined in section 59B(d)) bears to such exemption amount.''.

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ''or from section 35 of such Code''.

(B) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

''Sec. 35. Cost-sharing expenses under MediKids program.

''Sec. 36. Overpayments of tax.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(d) REPORT ON LONG-TERM REVENUES.—Within 1 year after the date of enactment of this Act, the Secretary of the Treasury shall propose a gradual schedule of progressive tax changes to fund the program under title XXII of the Social Security Act, as the number of enrollees grows in the out-years.

ORDER FOR ADJOURNMENT

Mr. GRASSLEY. Mr. President, we want to make sure there is time this evening for Senators BINGAMAN and LEVIN to give their remarks. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator BINGAMAN and Senator LEVIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank the chairman of the committee. I appreciate the chance to speak briefly on this bill. It is a very important piece of legislation. I congratulate the Senator from Iowa on the hard work he has put into this legislation. I do not share his conclusion about it at this stage, but I certainly admire the work he has put in and admire the good job he does as chairman of the committee on which I serve.

When the 2000 Presidential campaign was underway, I saw one of the debates between then-Governor Bush and then-Vice President Gore. Both of them in that debate endorsed the enactment of a prescription drug benefit for seniors for Medicare beneficiaries. I remember thinking when I saw that, this is one good thing that will come out of this campaign in the next few years, no matter who wins. But what I had in mind as a prescription drug benefit was a very different animal than what we have in these 1,100 pages that have been referred to repeatedly.

What I had in mind was a benefit where Medicare beneficiaries would be able to sign up for a prescription drug benefit. It would be voluntary. They could sign up or not. They could then pay a monthly premium. They would get a card. They could take that card, go to the pharmacy and get their prescription drugs. They might have to pay a copay. They might have to pay some deductible. But it was basically the adding of a prescription drug benefit to Medicare. That is what I thought both candidates were talking about.

That is not what we have in these 1,100 pages. Had we decided to enact that, it could have been done in a much smaller document.

I regretfully have to oppose the conference report for H.R. 1 as it comes before us tonight and tomorrow.

I will cite six reasons I have come to that conclusion. The first reason is that the bill, in my view, over time, will undermine traditional Medicare.

The second reason is that the bill requires the Government to overpay private health plans by tens of billions of dollars.

The third reason is that the bill actually will harm many senior citizens who are intended to benefit.

Fourth, the bill will increase drug costs rather than reducing them.

Fifth, the bill will dramatically increase the complexity and volatility of the Medicare system for many of our seniors.

Finally, the sixth point is that the bill will increase the financial burden on States and make it more difficult for each of our States to maintain the benefits they provide through their Medicaid programs to low-income patients.

Let me start with the problem that I see of this bill undermining traditional Medicare. Today, 88 percent of all of those 41 million people who are served by Medicare are enrolled in traditional Medicare. The major thrust of this bill is not to add a prescription drug benefit but instead to do what is euphemistically referred to as ''modernize'' Medicare.

Now, there are definitely some things we should do to modernize Medicare. I would agree with that. But as that term is used in this discussion, most of the time it is a code word, meaning that we should move people—seniors and disabled individuals—out of traditional Medicare into the private health care system. That is what is meant by a lot of our colleagues when they talk about modernizing Medicare.

There are two good reasons for moving people out of traditional Medicare into the private health care system, as I see it. I could certainly favor doing that if we could accomplish these purposes. The first, obviously, would be to make the program more efficient and save money—save some taxpayer dollars by moving these people out of the Government plan into a private plan.

The second, of course, would be if we could improve services, increase the satisfaction of Medicare beneficiaries by moving them into the private plan.

Let me just show this chart. Medicare cost growth: This relates to the first of those two points. Medicare has historically controlled costs far better than either private health care plans have, or even better than the Federal Employees Health Benefits Program, FEHBP. We all take great pride in the FEHBP program and talk about how this is a great benefit and we should extend it to others.

Between 1969 and now, Medicare's costs have increased at an annual rate of 8.9 percent a year, which stands in contrast to the 11 percent growth rate in the private health insurance arena and 10.6 percent growth rate in FEHBP. So the ideology of this drive to modernize Medicare or move people out of traditional Medicare into the private system does not match the evidence. In fact, the recent record is even more dramatic. Between 1996 and 2003, Medicare's per capita growth was 4.2 percent compared to 5.9 percent for private health plans and 5.3 percent for FEHBP.

Medicare wins the contest going away. But maybe some are willing to pay higher costs, so this chart should make that point. The red line shows the increase in costs from 1970 to the end of the century in private insurance. The blue line shows the increase in the cost of Medicare. They have both gone up, but Medicare has gone up less rapidly. We might still be willing to pay more—pay the amount required to put people on this red line if, in fact, we had greater patient satisfaction by doing so.

There is a recent study by the Commonwealth Fund, published in Health Affairs, and it is reflected on this chart. It is hard to read because the colors are too similar. What is reflected is that of those with private health insurance, there were 51 percent of those who were satisfied, and 62 percent of those in traditional Medicare were satisfied with their coverage. That is the case, despite the fact that Medicare benefits are less generous and its beneficiaries are more elderly and disabled and have higher health needs than individuals in the private health care system.

So the bill seeks to move people out of traditional Medicare into private health plans. It does so by dramatically overpaying the private health plans.

Let me move to my second point. Since managed care is not more efficient than traditional Medicare, the conference report concludes that the way to get people into these private health plans is to spend billions of dollars in overpayment to those plans.

The legislation begins by setting its benchmark for payments to private plans at 109 percent of what Medicare fee for service would have to spend for those beneficiaries. It does so in other ways as well, including giving health plans money that Medicare otherwise would pay to a disproportionate share of hospitals, to graduate medical education, and the cost of veterans retiree health care.